

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 - - - - -x

5 KERRY ASHDOWN,

6 Plaintiff,

7 -against-

13-CV-1374
(HB) (GWG)

8 EQUINOX a/k/a
9 EQUINOX FITNESS CLUB and incorporated as
10 EQUINOX HOLDINGS, INC.,
11 JOE MATARAZZO, a/k/a JOSEPH MATARAZZO,
12 MAURO MAIETTA, LAWRENCE SANDERS,
13 MATT PLOTKIN, a/k/a MATTHEW PLOTKIN, and
14 MATT HERBERT, a/k/a MATTHEW HERBERT,

15 Defendants.
16 - - - - -x

17 DEPOSITION of LAWRENCE SANDERS, taken by
18 Plaintiffs, pursuant to Stipulation, held at 200
19 West 57th Street, New York, New York, on
20 Thursday, September 12, 2013, commencing at
21 10:00 a.m., before Margaret M. Harris, a
22 Shorthand (Stenotype) Reporter and Notary Public
23 within and for the State of New York.
24
25

A P P E A R A N C E S:

THE HARMAN FIRM, P.C.
Attorneys for Plaintiffs
200 West 57th Street
Suite 900
New York, New York 10019

BY: WALKER HARMAN, ESQ.

LARocca HORNik ROSEN GREENBERG &
BLAHA, LLP
Attorneys for Defendants
40 Broadway
New York, New York 10005

BY: PATRICK McPARTLAND, ESQ.

P R E S E N T:

Lucas Larson

Kerry Ashdown (A.M. only)

IT IS HEREBY STIPULATED AND
AGREED that the filing and sealing of
the within deposition be, and the same
are hereby waived;

IT IS FURTHER STIPULATED AND
AGREED that all objections, except as
to the form of the question, be and
the same are hereby reserved to the
time of the trial;

IT IS FURTHER STIPULATED AND
AGREED that the within deposition may
be sworn to before any Notary Public
with the same force and effect as if
sworn to before a Judge of this Court;

IT IS FURTHER STIPULATED that
the transcript is to be certified by
the reporter.

Sanders

L A W R E N C E S A N D E R S, called as a
witness, having been first duly
sworn/affirmed by Margaret M. Harris, a
Notary Public within and for the State of
New York, was examined and testified as
follows:

EXAMINATION

BY MR. HARMAN:

Q Would you please state your full
name for the record.

A Lawrence Sanders.

Q And is that your legal name?

A Yes.

Q And have you gone by any other
name?

A No.

Q And what is your address?

A [REDACTED]

Q Is that --

A [REDACTED] New York.

Q And your zip?

A [REDACTED]

Q And how long have you lived at
that address?

1 Sanders

2 A A week, I just moved there.

3 Q What was your prior address?

4 A [REDACTED]

5 Q Is there an apartment number?

6 A [REDACTED] New York [REDACTED]

7 Q [REDACTED]

8 A [REDACTED]

9 Q And how long did you live there?

10 A Five years.

11 Q Have you ever been deposed

12 before?

13 A Yes.

14 Q How many times?

15 A Once.

16 Q Under what circumstances were you

17 deposed?

18 A A case against Equinox.

19 Q What type of case was it?

20 A A member against Equinox.

21 Q A member had sued Equinox?

22 A I guess she was trying, I'm

23 assuming.

24 Q What was she suing Equinox for?

25 A She fell off a moving treadmill,

1 Sanders

2 she stepped onto a moving treadmill.

3 Q So did you attend a deposition
4 like this in a conference room with a court
5 reporter?

6 A Yes.

7 Q And were you a defendant in the
8 case?

9 A No.

10 Q What was the member's name?

11 A I believe it was Collette Malouf.

12 Q And were you a witness in the
13 case? In other words, did you witness anything
14 happen?

15 A No.

16 Q Did this incident allegedly occur
17 at the Soho location?

18 A Yes.

19 Q And about how long ago did this
20 deposition take place?

21 A Approximately two years ago,
22 maybe between a year to two years, I'm not sure
23 exactly.

24 Q So that's the only time that you
25 have been deposed?

1 Sanders

2 A Yes.

3 Q And were you represented by
4 counsel at that deposition?

5 A Yes.

6 Q Who was your lawyer?

7 A LaRocco, the same firm.

8 Q Did you work with any individual
9 lawyer or lawyers?

10 A No.

11 Q When you say "the same firm,"
12 what do you mean by that?

13 A The firm that's representing
14 Equinox.

15 Q The firm that's representing
16 Equinox.

17 And do you mean the firm that's
18 representing Equinox in this case?

19 A Yes, it's the same firm.

20 Q And are you represented by
21 counsel today?

22 A Yes.

23 Q And who is your lawyer today?

24 A Patrick McPartland.

25 Q And have you worked with any

1 Sanders

2 other lawyers with respect to this matter?

3 A With respect to which matter?

4 Q This matter?

5 A No.

6 Q Have you ever been a party to a
7 lawsuit?

8 A No.

9 Q And just so the record is clear,
10 you have never sued anyone before?

11 A No.

12 Q And has anyone ever sued you
13 before?

14 A No.

15 Q Has anyone ever made any
16 work-related claims against you?

17 A Yes.

18 Q How many times have work-related
19 claims been made against you?

20 A Once.

21 Q When was that?

22 A 2009, I believe.

23 Q And what happened in 2009?

24 A I made some comments that made
25 someone feel uncomfortable.

1 Sanders

2 Q What comments were those?

3 A Comments about how someone
4 looked.

5 Q What did you say?

6 A I said that what she was wearing
7 was very nice, and, you know, she looked nice in
8 this, what she was wearing, she had a nice
9 bottom in what she was wearing.

10 Q A nice bottom?

11 A Yeah, a nice butt.

12 Q So you used the word "butt"?

13 A I don't recall exactly, but I
14 know that's what I made reference to.

15 Q So you stated that someone looked
16 nice and they had a nice butt?

17 A Yes.

18 Q And who did you make that comment
19 to?

20 A Another manager in the club.

21 Q What was that manager's name?

22 A Elizabeth Lefrois.

23 Q And she then brought a claim
24 against you related to the comments?

25 A She spoke to someone who

1 Sanders

2 basically spoke to someone else, so I guess you
3 could say yes.

4 Q Who did she speak to?

5 A She spoke to her boss, her
6 superior.

7 Q Who was her boss?

8 A Rachel Siboney.

9 Q What was your job? Was this at
10 the Equinox location?

11 A Yes.

12 Q And in 2009 when this incident
13 occurred, what was your title?

14 A General manager.

15 Q And what was her title?

16 A Group fitness manager.

17 Q Were you her direct superior?

18 A Yes.

19 Q And she spoke with Rachel
20 Siboney.

21 What was Rachel Siboney's role at
22 the time?

23 A Director of the group fitness
24 managers for New York.

25 Q And what happened, if anything,

1 Sanders

2 after that?

3 A I was brought in to the HR
4 department's office and they had a conversation
5 with me about the situation and I had corrective
6 action done.

7 Q What was the corrective action?

8 A That I obviously made someone
9 feel uncomfortable in my club and to obviously
10 not do that.

11 Q Were you given anything in
12 writing?

13 A I had something that I signed.

14 Q So you did --

15 A In writing --

16 Q So you did -- you were given
17 something to --

18 A There was something that they
19 wrote up and I signed the document.

20 Q And have you ever been given
21 corrective action on any other occasion?

22 A No.

23 Q And is Ms. Lefrois still the
24 group fitness manager?

25 A No.

1 Sanders

2 Q How long after that incident did
3 she remain the group fitness manager?

4 A For a few years.

5 Q And do you know where Ms. Lefrois
6 is now?

7 A She's an instructor at Equinox.

8 Q At what location?

9 A She teaches all over.

10 Q So she no longer works in a
11 managerial capacity?

12 A No.

13 Q And is that the only incident in
14 which a work-related claim has been brought
15 against you?

16 A Yes.

17 Q I know you have been deposed
18 before, but just so the record is clear and so
19 that you and I can work as efficiently as
20 possible today together, I'm going to go over or
21 give you a little background and go over a few
22 rules.

23 My name is Walker Harman. I'm a
24 lawyer. I'm part of the Harman Firm that
25 represents Kerry Ashdown in a lawsuit that she

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Sanders

has brought against Equinox and individuals
related to her job there.

Do you understand that?

A Yes.

Q I'm going to ask you a series of
questions today regarding that lawsuit.

If you don't understand a
question that I ask you, tell me that you don't
understand it and I will endeavor to rephrase
it, but the idea will be that if you answer the
question the record is going to read as though
you understood the question.

Do you understand that?

A Yes.

Q During the deposition today you
can take a break at any time you would like to
except when there is a question pending. If you
need to use the restroom, get something to
drink.

A Okay.

Q I would just ask that you finish
any pending question.

Along those same lines, after you
were sworn in this morning, you are under oath

Sanders

and that continues throughout the day, whether you're on a break, whether you go to lunch, et cetera. And the rules state that you are not to talk about your testimony to anyone while you're under oath and while the deposition is ongoing.

Do you understand that?

A Yes.

Q You have to verbalize, well, you don't have to, it's helpful if you verbalize your answers to questions because the court reporter can't always take down gestures or, you know, things like "yeah," you know, so --

MR. HARMAN: I don't even know if you got that.

A Understood.

Q So do your best to give specific verbal answers to questions.

Also along those same lines, in terms of the clarification of the record, try to let me finish my question and I will in turn allow you to finish your answer so that we are not interrupting each other.

Do you understand that?

A Yes.

1 Sanders

2 Q Are you aware that you're under
3 oath today?

4 A Yes.

5 Q And that failing to tell the
6 truth under oath is a crime called perjury?

7 A Yes.

8 Q And that you are appearing at a
9 deposition today before a court reporter and it
10 is the same oath that you would take as though
11 you were appearing in Federal Court as part of
12 this action.

13 Do you understand that?

14 A Yes.

15 Q Do you live alone?

16 A No.

17 Q Who did you live with?

18 A My children.

19 Q Are you married?

20 A No.

21 Q Do you have a domestic partner?

22 A Yes.

23 Q Do you live with your domestic
24 partner?

25 A Yes.

1 Sanders

2 Q Who is that?

3 A Shelley.

4 Q And Shelley's last name?

5 A Springer.

6 Q And then you also live with
7 children?

8 A Yes.

9 Q And how old are your children?

10 A [REDACTED]

11 Q And have you discussed this
12 matter with any of your children?

13 A No.

14 Q And have you discussed this
15 matter with Ms. Springer?

16 A No.

17 Q What's your date of birth?

18 A [REDACTED]

19 Q And what's your cell phone
20 number?

21 A [REDACTED]

22 Q And your cell phone provider?

23 A T-Mobile.

24 Q And how long have you used
25 T-Mobile?

1 Sanders

2 A A long time. I'm not sure how
3 many years, at least over five, six years.

4 Q During that time using T-Mobile,
5 have you always maintained the same cell phone
6 number?

7 A Uh-hum, yes.

8 Q Have you had any alcohol in the
9 last 24 hours?

10 A No.

11 Q Have you taken any drugs or
12 narcotics in the last 24 hours?

13 A No.

14 Q Are you currently taking any
15 prescription medications?

16 A No.

17 Q Can you think of any reason why
18 you could not provide your best and truthful
19 answers today?

20 A No.

21 Q Did anyone tell you to make
22 dishonest statements today?

23 A No.

24 Q Have you ever been arrested?

25 A No.

1 Sanders

2 Q Have you ever been accused of a
3 crime?

4 A In college, just criminal
5 destruction to property.

6 Q How old were you?

7 A 18, 19.

8 Q And what was the resolution on
9 that accusation of criminal destruction of
10 property?

11 A Probation.

12 Q Did you plead guilty to any kind
13 of offense?

14 A I guess criminal destruction of
15 property.

16 Q So you pled guilty to criminal
17 destruction of property and you were given a
18 sentence of probation?

19 A And paid for court costs.

20 Q And where did that take place?

21 A In college.

22 Q Where did you go to college?

23 A Western Illinois University.

24 Q West Illinois?

25 A Western Illinois University.

1 Sanders

2 Q And any other instances in which
3 you have been accused of criminal activity?

4 A No.

5 Q Have you ever been fired from a
6 job?

7 A No.

8 Q What, if anything, did you do to
9 prepare for today's deposition?

10 A Met with Patrick and talked to
11 Patrick over the phone.

12 Q When is the first time that you
13 met with Patrick to prepare for today's
14 deposition?

15 A Approximately two months ago.

16 Q And where did that meeting take
17 place?

18 A At his office.

19 Q Was anybody else present?

20 A I don't recall.

21 Q Did you review any documents
22 during that meeting?

23 A Yes.

24 Q What documents did you review?

25 A Documents in regards to pulling

1 Sanders

2 up sessions, like a computer document.

3 Q Was there more than one document
4 that you reviewed that date two months ago?

5 A I think I might have reviewed
6 some e-mails, copies of e-mails.

7 Q Anything else?

8 A No.

9 Q So let's start with the computer
10 documents regarding pulling of sessions.

11 What do you recall about those
12 documents?

13 A They just had names on them,
14 dates.

15 That's it.

16 Q Anything else?

17 A No.

18 Q And I'm not asking about the
19 substance of the communications that you had
20 with your lawyer or the conversation with your
21 lawyer --

22 A I understand.

23 Q What I want to know is what you
24 know about the document.

25 Had you seen the document before

1 Sanders

2 that day?

3 A Oh, yes.

4 Q And how does that document, if it
5 does, how does that document relate to this
6 lawsuit?

7 A It relates because that was the
8 documentation of when vouchers were pulled and
9 when vouchers were reinstated, when vouchers
10 expired and who they were pulled for and who
11 they were pulled by.

12 That's what the report was.

13 Q What's the report called?

14 A It was an IT report, so it was
15 the IT department pulling the report, so I'm not
16 sure if it has a name.

17 Q Did you ask the IT department to
18 pull that report?

19 A Yes, I did.

20 Q When did you do that?

21 A Approximately sometime in August
22 of 2011.

23 Q And was the report that you are
24 looking at in your lawyer's office two months
25 ago the same document that you asked the IT

1 Sanders

2 department to pull in August of 2011?

3 A Yes.

4 Q And why in August of 2011 did you
5 ask the IT department to pull a report?

6 A Because there was some
7 accusations of misappropriating vouchers of
8 sessions, people being paid for sessions that
9 they didn't do.

10 Q And who made these accusations?

11 A Mauro.

12 Q And is this Mauro Maietta?

13 A Yes.

14 Q And to whom did he make these
15 accusations?

16 A He brought it to my attention.

17 Q And when did he do that?

18 A Did you say when?

19 Q Yes.

20 A Sometime between July and August
21 of 2011.

22 I can't remember the exact date
23 or time.

24 Q So with respect to the IT
25 document, you stated that the document evidenced

1 Sanders

2 when sessions were pulled?

3 A Yes.

4 Q What does that mean?

5 A The personal trainers do sessions
6 and the clients must sign for the session before
7 they do the session or after they do the
8 session, so we term that as pulling the session.

9 So what that means is -- that's
10 how the personal trainer gets paid for doing
11 that session, is when the session is actually
12 signed for or pulled by the client or a manager.

13 Q Well, let's go back.

14 So Mauro accused -- who did Mauro
15 accuse of pulling, what did Mauro accuse, what
16 was the basis of the accusation that Mauro made?

17 A Mauro didn't accuse anyone.
18 Mauro just said "You need to take a look at
19 this."

20 Q Sir, I'm using your word.

21 So are you retracting your word,
22 because you used the word "accusation."

23 So what did you mean by
24 accusation when you used it earlier in your
25 testimony?

1 Sanders

2 A He was making an accusation that
3 there was something going on with the sessions
4 that were being pulled for particular
5 individuals, and that's all he did, he said,
6 "There's something going on and you need to look
7 at this."

8 Q And did he accuse anyone of
9 wrongdoing?

10 A No.

11 Q Why was he bringing this to your
12 attention?

13 A Because it's part of his job to
14 manage the sessions that are being pulled
15 specifically as it relates to AMEX and it
16 relates to certain types of sessions being
17 pulled with trainers and he prints out reports
18 for his staff as it relates to their commission,
19 so if he sees something that is not right, his
20 job is to either bring it to my attention or
21 bring it to his boss, the PT manager's
22 attention.

23 Q So it's his job to bring issues
24 to the PT manager's attention?

25 MR. McPARTLAND: Objection

1 Sanders

2 to form.

3 A Or my attention.

4 Q You can answer.

5 A It's his job to bring issues to
6 either the PT manager or myself as the general
7 manager.

8 Q At this time in 2011, who was
9 Mauro's direct supervisor?

10 A Kerry Ashdown.

11 Q And you said that he brought
12 something to your attention that was not right?

13 A Yes.

14 Q What was not right?

15 A That sessions were being
16 reinstated and sessions were, expired sessions
17 were being reinstated, and the sessions were
18 getting pulled for particular clients that had
19 no usage in our facility during the time that
20 these sessions were being pulled for, and for
21 these particular trainers.

22 So he wanted me to look into it.

23 Q Who was pulling sessions?

24 A Kerry Ashdown pulled some of them
25 and -- according to the codes that were used,

1 Sanders

2 and the other codes that we used was Cornelia
3 Hobbie.

4 Q Who is Cornelia Hobbie?

5 A At the time she was a manager in
6 training working under Kerry and Mauro.

7 Q Just so the record is clear, did
8 Mr. Maietta accuse Ms. Ashdown of improperly
9 pulling sessions?

10 MR. McPARTLAND: Object to
11 the form.

12 You can answer if you
13 understand.

14 A No, he didn't accuse her.

15 Q Did he claim that Ms. Ashdown
16 improperly pulled sessions?

17 A He claimed that there was
18 obviously something wrong going on, that's what
19 he claimed, and he wanted me to look into it.

20 Q And did he claim that there was
21 something wrong going on and that Ms. Ashdown
22 was responsible for it?

23 A No, he never said Ms. Ashdown was
24 responsible for it.

25 Q Is Ms. Hobbie still working at

1 Sanders

2 Equinox?

3 A I don't believe so.

4 Q And how long after the summer of
5 2011 did Ms. Hobbie remain employed at Equinox?

6 A I don't know the answer to that
7 question.

8 Q Can you give me a guess -- well,
9 you terminated Ms. Ashdown, right?

10 A Yes.

11 Q So when did you do that?

12 A I believe it was the first couple
13 of days of September, within the first couple of
14 days of September.

15 Q And how long after you terminated
16 Ms. Ashdown did Ms. Hobbie remain employed at
17 the Soho Equinox location?

18 A She was there for probably a
19 couple of months and then she was promoted to be
20 a fitness manager at one of the clubs, I believe
21 43rd Street.

22 Q She was promoted?

23 A Yes.

24 Q Now, as you sit here today, is it
25 your belief that Ms. Ashdown improperly took

Sanders

sessions at Equinox?

A Yes.

Q And did she steal them?

A I would say, yes.

Q So it's your testimony that
Ms. Ashdown stole sessions at Equinox?

A Yes.

Q Now, when you came to this
belief, did you call the police?

A No.

Q And did you come to the
conclusion that Ms. Hobbie stole sessions at
Equinox?

A A possibility.

Q How was it a possibility?

A Because at the time there were
codes that were used to pull sessions, there
were sessions that were pulled for Kerry Ashdown
to get paid on that were used by Cornelia's
code, so, yes, you could believe that Cornelia
stole something for Kerry.

Q And did you try to terminate her?

A There was a full investigation of
the whole situation.

1 Sanders

2 Q Please just answer my question.

3 Did you terminate Ms. Hobbie?

4 A No, I didn't.

5 Q Did anyone else try to terminate

6 Ms. Hobbie?

7 A No, they didn't.

8 Q And other than Ms. Hobbie and
9 Ms. Ashdown, were any other individuals involved
10 in this session pulling incident in the summer
11 of 2011?

12 A No.

13 Q And can you explain to me how you
14 formed the belief that Ms. Ashdown stole
15 sessions at Equinox?

16 A Because her codes were used,
17 because she was the one in the club during the
18 time of the sessions being pulled from her
19 computer, and then there was no one else in the
20 club that would have access to her code or --
21 and she had access to Cornelia's code, because
22 she had to give Cornelia her code in order to be
23 able to teach her and train her on how to do
24 part of the job, so Kerry had access to
25 Cornelia's code.

Sanders

So, again, you know, that's what led us to believe, led me to believe that she pulled the sessions and she, you know, she benefitted from the sessions by being paid for sessions that she didn't do and then there were two trainers that got paid for sessions that they had no idea that these clients were even on their rosters and they weren't using the facility.

One of the trainers that got paid for the sessions was her personal trainer and another one was a trainer that she was very, you know, close to.

Q What were those trainers' names?

A Ryan Hopkins and Bobby O'Dwyer.

Q Have you ever terminated, other than Ms. Ashdown, have you ever terminated anyone for pulling sessions improperly?

A No, I haven't.

Q And have you ever terminated anyone for stealing?

A Yes, I have.

Q Who did you terminate for stealing other than Ms. Ashdown?

1 Sanders

2 A I don't remember the employees'
3 names, but there were two employees that a
4 deposit went missing, and I terminated both of
5 them, but it happened a while ago, so I don't
6 really remember their names.

7 I had another employee that was
8 witnessed stealing something out of the locker,
9 and I terminated him, actually had him arrested,
10 and those are the only three that I can think of
11 off the top of my head right now.

12 Q What is alleged to have been
13 stolen out of a locker?

14 A A wallet.

15 Q Do you have any idea what was in
16 the wallet?

17 A I'm not sure.

18 Q So you don't know the value of
19 the contents of the wallet?

20 A No, I don't.

21 Q But you called the police on that
22 incident?

23 A Yes.

24 Q And what was the employee's name
25 that was involved in that stealing incident?

1 Sanders

2 A I believe his name was Ramon. I
3 don't remember his last name.

4 Q Did Mr. Maietta ever accuse
5 Ms. Ashdown of any other illegal conduct?

6 MR. McPARTLAND: Object to
7 the form.

8 You can answer.

9 A No.

10 Q Did Mr. Maietta ever accuse
11 Ms. Ashdown of any other improper conduct?

12 MR. McPARTLAND: Object to
13 the form.

14 You can answer.

15 A No.

16 Q Did you ever have any discussions
17 with Cornelia Hobbie about sessions that were
18 associated with her name?

19 A Yes.

20 Q And what did she say?

21 A She had no knowledge of,
22 obviously, what I was asking her about, and she,
23 again, wasn't in the building or around the club
24 at the time that the sessions were pulled.

25 Q When did this conversation take

1 Sanders

2 place?

3 A Probably in August of 2011. I
4 don't remember the exact date.

5 Q And where did the conversation
6 take place?

7 A The conversation happened in the
8 gym at the club.

9 Q In June?

10 A In the gym, in the club.

11 Q Oh, in the gym.

12 And what did you say to her?

13 A I asked her does she know who
14 these people are or why these things were
15 pulled.

16 Q And what did she say?

17 A And she had no knowledge of any
18 of what I was asking her.

19 Q You know she had no knowledge?

20 A That's what she said.

21 Q And these were sessions that were
22 pulled under her code?

23 A Yes.

24 Q And they were pulled under her
25 code for other trainers?

1 Sanders

2 A For Kerry Ashdown.

3 Q They were pulled under her code
4 for Kerry Ashdown?

5 A Yes.

6 Q How many sessions?

7 A I believe it was at least four I
8 know of, but I don't remember exactly how many.

9 Q And so there were sessions pulled
10 for Kerry Ashdown for a training session that
11 you believe never took place?

12 A Yes.

13 Q And you believe that Ms. Ashdown
14 deliberately did that to gain money?

15 A Yes.

16 Q And that she did it dishonestly?

17 A Yes.

18 Q Was she paid for the four
19 sessions?

20 A Yes.

21 Q How much was she paid for those
22 sessions?

23 A Probably about 60 bucks.

24 Q So it's your testimony as you sit
25 here today that Ms. Ashdown engaged in this

1 Sanders

2 conduct in order to gain 60 bucks?

3 A I don't know why she --

4 Q I'm asking you --

5 MR. McPARTLAND: Please
6 don't interrupt him. Let him
7 answer your question.

8 A I'm not sure what the question
9 is.

10 Q So it's your testimony that
11 Ms. Ashdown engaged in this activity that you
12 have described in order to gain 60 bucks?

13 A I don't know why she would engage
14 in that activity, so I don't know.

15 Q Well, would she gain anything
16 else?

17 A I don't think I'm the person to
18 judge why --

19 Q You managed the club, right?

20 A I'm not the person to judge why
21 someone would do something.

22 Q Let me keep it simple for you.

23 I'm talking about economics. I'm
24 talking about dollars, right?

25 MR. McPARTLAND: Objection.

1 Sanders

2 Please don't harass the
3 witness.

4 It's just improper. You
5 can ask him direct questions.

6 MR. HARMAN: I am not
7 harassing the witness. And I
8 would appreciate you keeping your
9 comments to speaking, to not
10 doing speaking objections.

11 MR. McPARTLAND: It's not
12 a speaking objection to tell you
13 not to harass the witness.

14 MR. HARMAN: You are
15 speaking now.

16 MR. McPARTLAND: I'm
17 allowed to speak if you're
18 harassing the witness.

19 MR. HARMAN: I am not
20 harassing the witness.

21 MR. McPARTLAND: That's
22 not a speaking objection.

23 MR. HARMAN: Are you done?

24 MR. McPARTLAND: Ask him a
25 question.

1 Sanders

2 MR. HARMAN: Are you done?

3 MR. McPARTLAND: Are you
4 done?

5 MR. HARMAN: No. It's my
6 deposition.

7 MR. McPARTLAND: So ask
8 him a question.

9 MR. HARMAN: Can you read
10 back the last question?

11 (Whereupon, the record was
12 read back by the reporter.)

13 BY MR. HARMAN:

14 Q That's the question. Yes or no?

15 A I guess yes.

16 Q And were there sessions pulled
17 for Cornelia Hobbie where she would have gained
18 an economic advantage?

19 A No.

20 Q Were there sessions pulled for
21 anyone else where that person could have gained
22 an economic advantage?

23 A Ryan Hopkins and Bobby O'Dwyer.

24 Q So did you speak to Ryan Hopkins
25 about the sessions that were pulled for him?

1 Sanders

2 A Yes.

3 Q And what did he say?

4 A He said he didn't know what --
5 who those people were, or who that person was,
6 he said he doesn't know why those sessions were
7 pulled for him, because those are not clients of
8 his.

9 And he said that he knew that
10 there were times when Kerry would train with him
11 and she wouldn't pay for sessions with him, so
12 she would pull sessions from her clients and he
13 said maybe that's what those were.

14 Q So Ryan told you that Kerry would
15 pull sessions from other clients and give them
16 to him?

17 A Yes.

18 Q And does that violate Equinox's
19 policy?

20 A Yes, it would.

21 Q So sessions were taken from
22 clients' accounts that they hadn't used?

23 A Sessions were taken --

24 Q Well, you just told me that Kerry
25 would -- so how does it violate Equinox's

1 Sanders

2 policy?

3 A How does it violate Equinox's
4 policy --

5 Q Yes.

6 A -- to pull sessions for trainers
7 who haven't performed those sessions?

8 Q Well, your testimony is that Ryan
9 told you that sessions were pulled and given to
10 him?

11 MR. McPARTLAND: Object to
12 the form.

13 You can answer.

14 Q I'm just trying to understand
15 what Ryan told you.

16 So Ryan told you, Ryan said, you
17 asked him about the sessions that were in his,
18 that were on his --

19 A Commission report.

20 Q -- his commission report.

21 And he said he didn't recognize
22 the names?

23 A He said they weren't clients of
24 his. He didn't know who they were.

25 Q Not clients of his.

1 Sanders

2 And what else did he say?

3 A And I said to him, I said, "You
4 didn't recognize the sessions that were pulled
5 for you that you don't train these people?"

6 And he proceeded to say there
7 were times when Kerry would train with him and
8 pull sessions through her clients, her clients,
9 so that Ryan would get paid.

10 So she wouldn't get paid for her
11 clients during the session she was doing with
12 her clients, but she would pull it for Ryan so
13 he could get paid so he wasn't training her for
14 free. That's what he said she told him.

15 So there would be names on his
16 report sometimes that were not his clients, but
17 he just assumed that these were clients that
18 were possibly Kerry's that she was pulling for
19 him.

20 Q But as I understand your
21 testimony, the client was getting trained,
22 correct?

23 A No, the client was not.

24 Q How do you know?

25 A Because there was no usage in our

1 Sanders

2 facility.

3 Q And how do you know that?

4 A Because I look in our system and
5 see if the person was using the club.

6 Q You said that Ryan told you that
7 there were times where Kerry pulled sessions for
8 her clients and gave them to him?

9 A Uh-hum.

10 Q Did you investigate that?

11 A Did I investigate?

12 Q That accusation?

13 A No, I didn't.

14 Q So as you sit here today Ryan
15 told you something that violated Equinox's
16 policy, but you didn't investigate it?

17 A Because that was all a part of
18 this investigation.

19 Q Just tell me whether you
20 investigated it or not.

21 MR. McPARTLAND: Object to
22 the form.

23 You can answer.

24 A I didn't.

25 Q Did you look at any of Ryan's

1 Sanders

2 other commission reports?

3 A I looked at commission reports
4 probably for a couple of pay periods.

5 Q How many pay periods?

6 A A couple in July.

7 Q Is that it?

8 A Yes.

9 Q And did you ask Ryan how long he
10 alleged that Kerry had been pulling sessions for
11 her clients and giving them to him?

12 A No, I didn't.

13 Q So it's your testimony as you sit
14 here today that Kerry was also stealing sessions
15 from her clients and giving them to Ryan?

16 MR. McPARTLAND: Object to
17 the form.

18 A I don't understand the question.

19 Q Well, you just told me, didn't
20 you, that Ryan told you that Kerry was just
21 taking sessions from clients' accounts and
22 giving them to him, correct?

23 A Kerry was performing the sessions
24 for her clients, so she was performing work that
25 she voluntarily decided not to get paid for and

1 Sanders

2 paid Ryan instead by pulling those sessions for
3 him instead of herself.

4 Q Oh, I see.

5 But you approved that, didn't
6 you?

7 A No, I didn't.

8 Q You know that you are under oath
9 today?

10 A I'm very much aware of that.

11 Q And you never approved that?

12 A I did not approve that.

13 Q You never told Kerry for any
14 period of time that you would give her
15 authorization for that?

16 A Nope.

17 Q All right.

18 So let's talk about Bobby.

19 Did you speak with Bobby?

20 A Yes.

21 Q What did Bobby have to say?

22 A He didn't know who the people
23 were.

24 Q When you say "the people," who
25 are the people?

1 Sanders

2 A The members, the clients, the
3 clients that were pulled, the sessions.

4 Q Who was that?

5 A Who is what?

6 Q Who were the clients?

7 A I don't remember all their names.

8 Q Do you remember any names?

9 A I think one was Daniel Levy. One
10 might have been Brian Candida, C-A-N-D-I-D-A, I
11 believe.

12 Q Anybody else?

13 A I believe another one was Jacques
14 Levy.

15 Q So it was Daniel Levy and Jacques
16 Levy?

17 A I'm not sure. I think Jacques
18 was definitely one of the names, I'm pretty
19 sure, but I don't remember the last name.
20 Sorry.

21 Q You said that you met with your
22 lawyer a couple of months ago and you reviewed
23 some documents and you don't recall whether
24 anyone was present; is that correct?

25 A Correct.

1 Sanders

2 Q And did you do anything to
3 prepare for your deposition today?

4 A No. I mean, I talked to him on
5 the phone. That's about it.

6 Q When did you talk to your lawyer
7 on the phone?

8 A Yesterday.

9 Q And when did that conversation
10 take place?

11 A Late afternoon.

12 Q And how long did that
13 conversation last?

14 A Twenty minutes maybe.

15 Q And was anybody else on that
16 call?

17 A Not to my knowledge.

18 Q And where were you when the
19 conversation took place?

20 A At work.

21 Q When you say "at work"?

22 A At Equinox.

23 Q Where were you physically located
24 at work?

25 A In my office in Soho in Equinox.

1 Sanders

2 Q Is that a closed office?

3 A Yes.

4 Q Was your door closed?

5 A Yes.

6 Q And did you talk to Mr. Maietta
7 yesterday?

8 A I mean, I talked to him for
9 business, yeah. We work together.

10 Q I'm asking you whether you talked
11 to Mr. Maietta.

12 A Yeah, I talked to him yesterday.

13 Q When did you talk to Mr. Maietta?

14 A Late afternoon.

15 Q And what did he say to you
16 yesterday, late afternoon?

17 A He told me that he needed to
18 leave work a little early because he had to go
19 to Lamaze with his wife, because his wife was
20 pregnant.

21 Q Did he tell you anything else?

22 A No.

23 Q That's the only thing he told you
24 yesterday?

25 A Yes.

1 Sanders

2 Q And did you ask Mr. Maietta
3 anything yesterday?

4 A No.

5 Q Did you tell Mr. Maietta anything
6 yesterday?

7 A No.

8 Q And when is the last time you
9 discussed this case with Mr. Maietta?

10 A Don't know.

11 Q What do you mean by that?

12 A I don't recall when I have
13 discussed this case with him, outside of getting
14 e-mails that we had to talk to attorneys or
15 whatever.

16 Outside of that, we haven't, I
17 haven't talked to him.

18 So I don't remember when that was
19 when we started getting e-mails about, oh, we
20 have got to have these depositions or whatever
21 and we all were part of these e-mails.

22 So that's not the only time that
23 we have talked about it.

24 Q When you say "we talked about
25 it," what do you mean by that?

1 Sanders

2 A Meaning all of us that, you know,
3 have to be a part of this.

4 Q Who are "all of us"?

5 A Me, Matt and Mauro.

6 Q Anybody else?

7 A No.

8 Q So have you ever had a
9 conversation with Mauro about this case?

10 A No.

11 Q Never?

12 A No.

13 Q And have you ever had a
14 conversation with Matt about this case?

15 A No.

16 Q Have you ever exchanged an e-mail
17 with Mauro about this case?

18 A No.

19 Q Have you ever exchanged text
20 messages with Mauro about this case?

21 A No.

22 Q How about with Matt, have you
23 ever exchanged an e-mail with Matt about this
24 case?

25 A No.

1 Sanders

2 Q And text message with --

3 A No.

4 Q And what type of phone do you
5 have?

6 A A BlackBerry.

7 Q And do you text with your
8 BlackBerry?

9 A Occasionally.

10 Q And do you text with Mauro?

11 A Not really.

12 Q When you say "not really"?

13 A Once every six months, maybe,
14 once every year. Not really.

15 Q So you're not a big texter?

16 A Not on business, no.

17 Q And so that would include Matt,
18 too, you don't text with him?

19 A No.

20 Q On a regular basis you don't text
21 with him?

22 A No.

23 Q And would that include any other
24 Equinox employee? You are not a big texter?

25 A No.

1 Sanders

2 Q And other than this meeting that
3 you had two months ago where you looked at these
4 two documents, we are talking about the second
5 set of documents and the telephone call that you
6 had yesterday, did you do anything to prepare
7 for today's deposition?

8 A No.

9 Q Did you speak to anyone else
10 about today's deposition?

11 A No.

12 Q Is this a regular workday for
13 you?

14 A Yes, sir.

15 Q And did you tell anyone that you
16 would be away from work today?

17 A I told my assistant general
18 manager that I would be away from work, yes.

19 Q Did you give her a reason why?

20 A Just told her that I had to do
21 some business outside of the club.

22 Q Do you have an Equinox-issued
23 cell phone?

24 A Yes.

25 Q And who is issued cell phones at

1 Sanders

2 Equinox?

3 A Who what?

4 Q At the location level, other than
5 the general manager of a location, is anyone
6 else issued cell phones?

7 A Outside of the general managers,
8 you said is anyone else in the club issued cell
9 phones?

10 Q Yes.

11 A Not to my knowledge.

12 Q So just the general manager?

13 A Yes. And I mean regional
14 managers or whatever, they're not in the clubs.

15 Q Did you talk to Ms. Ashdown when
16 -- well, you terminated her, right?

17 A Yes.

18 Q And you terminated her because
19 you thought she was stealing?

20 A Uh-hum.

21 MR. McPARTLAND: Please
22 keep your answers verbal,
23 Lawrence, yes.

24 A Yes, I'm sorry.

25 Q Did she admit to stealing?

1 Sanders

2 A No.

3 Q Did she deny it?

4 A Yes.

5 Q Did she offer to take a lie
6 detector test?

7 A Yes.

8 Q And did you make any arrangement
9 to have her take a lie detector test?

10 A No.

11 Q Did you tell anyone that she
12 offered to take a lie detector test?

13 A I believe so. I'm not 100
14 percent certain though.

15 Q You're an ambitious person, would
16 you say?

17 A Yes.

18 Q And being a general manager at
19 the Soho Equinox is a lofty achievement in your
20 field, would you say that?

21 A I guess so, yeah.

22 Q And you worked with Ms. Ashdown
23 for a period of time --

24 A Yes.

25 Q -- correct?

1 Sanders

2 And would you consider her, based
3 on your observations of her only, would you
4 consider her to be an ambitious person?

5 A Yes.

6 Q And by that I mean in the field
7 of fitness and fitness management, that's what I
8 mean.

9 A Yes.

10 Q And I take it if you had an
11 opportunity to advance in your field that you
12 would want to do that, correct?

13 A Yes.

14 Q Can you give me an example of how
15 you might advance in your field?

16 A Get a bigger club, become an area
17 manager, regional manager.

18 Q By the way, what's a bigger club?
19 I'm not being a jerk, I just don't know.

20 A Meaning a larger club that has
21 more employees, more revenue going through it,
22 it's a larger club in the Equinox brand as far
23 as maybe it's a flagship location or something
24 like that, more members, busier.

25 Q And what would be an advancement

1 Sanders

2 for someone who is a personal training manager?

3 A What would be an advancement for
4 a training manager?

5 Q Yes.

6 A Along the same lines, you know,
7 starting at a smaller club, going to a bigger
8 club that's busier, larger staff, becoming an
9 area manager, you know, doing something, you
10 know, that's bigger than just managing one
11 location.

12 Q And based on your observation,
13 did Ms. Ashdown appear to be someone who would
14 want to advance in that way?

15 A Yes.

16 Q Are you aware that other
17 depositions have taken place in this case?

18 A Yes.

19 Q And are you aware that I've taken
20 those depositions?

21 A I'm not aware of that.

22 Q I will tell you that I have.

23 And it's my understanding, and
24 please correct me if I've misunderstood, that
25 managers at a location can pull sessions if the

1 Sanders

2 client doesn't pull them from the front desk,
3 correct?

4 A Yes.

5 Q And a manager would include the
6 general manager?

7 A Yes.

8 Q Which in this case would be you,
9 correct?

10 A Yes.

11 Q And the personal training
12 manager?

13 A Yes.

14 Q And the fitness manager?

15 A Yes.

16 Q And a general, assistant general
17 manager?

18 A Yes.

19 Q And in order to do that, you need
20 a code, correct?

21 A Yes.

22 Q And if someone came to you and
23 accused you of using your code to improperly
24 pull sessions, and you hadn't done it, would you
25 want the opportunity to prove that you hadn't

Sanders

done it?

A Of course.

Q Right. Would you volunteer to take a lie detector test?

A I would just do everything in my power to prove that it wasn't me as opposed to just saying it wasn't me.

Q And you don't think that Ms. Ashdown did everything in her power?

A I don't think so.

Q What else could she have done?

A I think there are multiple things that could be done.

Q Let's start with the first one then.

A If I'm being accused of doing something that's inappropriate and the documentation is given to me of this is what was, what I'm being accused of, I'm going to do my own investigation and I am going to bring it back to my superiors and say, "This is what I found out, this is what I've investigated, this is what I've done and this is what I believe has happened."

1 Sanders

2 I gave Kerry that opportunity.
3 When I first brought it to Kerry's attention, I
4 didn't say, "Kerry, you did something wrong."

5 I said, "Kerry, this is what was
6 brought to my attention. I need you to explain
7 this for me."

8 All Kerry said to me was "I
9 didn't do it. I don't care what you have, I
10 didn't do it and I know I didn't do it," and
11 that was it.

12 And I said, "You've got to
13 explain this for me."

14 This was before I went to the
15 bosses and said, "Hey, I've got a situation.
16 What are we going to do about this?"

17 So I gave her that opportunity.
18 I presented it to her. I hired her. I like
19 her. She was a good employee. She was someone
20 that, you know, I thought we were close, you
21 know, and so I wanted to give her that
22 opportunity to show me that she would
23 investigate it.

24 I didn't investigate it right
25 away. I wanted her to show me, let her go do

Sanders

her homework. Let her go do her research. Let her go and question Ryan, question Bobby, question Cornelia.

That's part of, if I'm the person being accused of something and they are giving me, you know, the documents, that's what I would do, I would at least try to do that to show, "Look, I'm investigating this, I'm looking into this, I'm going to get to the bottom of it, because it's not me and I'm going to show you it's not me and why it's not me."

That didn't happen.

Q Did you ever sit down and talk with Kerry and Mauro at the same time about this issue?

A No.

Q Did you ever sit down and talk with Kerry and Ryan together about this issue?

A No.

Q Did you ever sit down and talk with Kerry and Bobby about this issue?

A No.

Q Tell me when you first approached Ms. Ashdown about this issue.

1 Sanders

2 A What do you mean?

3 Q Well, I mean, you said you gave
4 her the opportunity.

5 I mean, how long was that?

6 A At least a week.

7 Q So it's your testimony as you sit
8 here today that you gave her a week to
9 investigate this issue before you mentioned it
10 to anyone else?

11 A Before I got others involved to
12 the point of "What are we going to do about
13 this?"

14 Q When did you come to the
15 conclusion that she in your mind had stolen
16 something from Equinox?

17 A I don't remember the exact date.
18 I mean ...

19 Q Well, there's a week, right?
20 Was it during that week?

21 A I would say when there was no
22 information from her as it relates to how this
23 happened and why this happened and who is
24 responsible for this, and then after speaking
25 with the individuals that I spoke with, it led

Sanders

me to believe that she could definitely have done this.

Q So during this week you were conducting your own investigation?

A Yes.

Q But you weren't communicating with her about that?

A No.

Q Then when she volunteered to take a lie detector test, you didn't pursue that avenue?

A No.

Q Now, isn't it true that initially Ms. Ashdown wasn't allowed to conduct her own investigation?

A I don't believe that to be the case.

Q So as the club manager, you, it's your testimony that you had -- did you instruct Ms. Ashdown to conduct her own investigation?

A I specifically asked her or said to her, "This is what the situation is. I need you to explain this for me."

So to me that means her figuring

1 Sanders

2 out how she's going to explain to me this
3 situation.

4 And forgive me for assuming, it's
5 wrong to assume, but I would, again, assume that
6 if I'm telling her, "I need you to explain this
7 for me," that she is going to be able to try to
8 explain it to me or for me.

9 She did not do that. She just
10 said, "I didn't do anything wrong." That's it.

11 Q Did you ever tell her to conduct
12 her own investigation?

13 A No.

14 Q Did you ever tell her to speak to
15 Ryan?

16 A No.

17 Q Did you ever tell her to speak to
18 Bobby?

19 A No.

20 Q Did you ever tell her to speak to
21 Mauro?

22 A No.

23 Q Did Mauro ever complain about
24 Ms. Ashdown?

25 A He voiced concerns about how she

1 Sanders
2 spoke to him and how he felt she didn't respect
3 him.

4 Q Ms. Ashdown was his superior,
5 correct?

6 A She was his boss. But in the PT
7 world, the PT manager and fitness manager need
8 to work closely together as a team even though
9 the PT manager --

10 MR. HARMAN: Move to
11 strike as nonresponsive.

12 I'm going to take a break
13 now.

14 Thank you.

15 (Whereupon, at 11:13 a.m., a
16 recess was taken.)

17 (Whereupon, at 11:22 a.m.,
18 the deposition resumed with all
19 parties present.)

20 MR. HARMAN: Back on the
21 record.

22 BY MR. HARMAN:

23 Q Mr. Sanders, have you made any
24 false statements today on the record?

25 A No.

1 Sanders

2 Q I'm sorry. I didn't hear you.

3 A No.

4 Q Are you positive of that?

5 A Yes.

6 Q I take it if you had made any
7 false statements on the record that you would
8 tell me?

9 A Yes.

10 Q Isn't it true that you called
11 Ms. Ashdown after you terminated her?

12 A Yes.

13 Q And why did you do that?

14 A Because I'm a human being first
15 and foremost, and, like I said, I thought we had
16 a, somewhat of a friendship, I guess a work
17 friendship, and I knew what she was going
18 through, obviously, and I heard that she was
19 doing better, so just as a human being, I do
20 care about people, so I made a call to her to
21 just let her know that I was glad she was doing
22 better.

23 My mistake if that was taken any
24 way out of context.

25 But I am a human being first and

Sanders

foremost.

And, again, regardless of a business relationship or a business situation, business and personal are two very different things.

I was just trying to, again, let her know that I'm glad that she was doing better.

Q And that was after you had accused her of stealing?

A Yes.

Q And you believed that she had stolen?

A Yes.

Q And that she had stolen \$60?

MR. McPARTLAND: Object to the form.

You can answer.

A Yes.

Q Do you understand the question?

A Yes.

Q How long have you been a manager at Equinox?

A About five years probably.

1 Sanders

2 Q And during that time you have
3 never terminated anyone for stealing sessions?

4 A No.

5 Q Have you investigated anyone for
6 stealing sessions during that time, other than
7 Ms. Ashdown?

8 A Not that I'm aware of, no, not
9 that I recall.

10 Q Mr. Maietta didn't like
11 Ms. Ashdown, did he?

12 A I don't think I would say that.

13 Q Did he like her?

14 A Like her as a person or like her
15 as a boss? I mean, he didn't dislike her --

16 Q Well, let's be --

17 A He didn't dislike her. I can --
18 he didn't dislike her.

19 Q You're positive of that?

20 A I'm pretty certain that he did
21 not dislike her.

22 Q Didn't he accuse her of drinking
23 with employees?

24 A He didn't accuse her of that.

25 Q Oh, he didn't?

1 Sanders

2 A No.

3 Q You have no recollection as you
4 sit here today of Mauro Maietta accusing
5 Ms. Ashdown of improper behavior and drinking
6 with other trainers?

7 A I think -- he -- he said others
8 were accusing her of that, not him.

9 Q But he brought that to your
10 attention, right?

11 A Yeah.

12 Q And he liked to bring negative
13 things about Ms. Ashdown to your attention,
14 right?

15 MR. McPARTLAND: Object to
16 the form.

17 A I wouldn't say that, no.

18 Q Was there more than one occasion
19 on which Mr. Maietta brought negative things
20 regarding Ms. Ashdown to your attention?

21 MR. McPARTLAND: Object to
22 the form.

23 You can answer.

24 A Again, like I said earlier, he
25 didn't like how she spoke to him or he felt that

1 Sanders

2 she talked down to him and he felt she didn't
3 have respect for him.

4 MR. HARMAN: Move to
5 strike as nonresponsive.

6 Would you please repeat
7 the question?

8 MR. McPARTLAND: He
9 answered the question.

10 MR. HARMAN: Could you
11 please repeat the question?

12 (Whereupon, the record was
13 read back by the reporter.)

14 Q That's a yes or no question.

15 MR. McPARTLAND: Object to
16 the question.

17 Asked and answered.

18 You can answer.

19 A Again, as I stated, he --

20 Q Was there more than one, yes or
21 no?

22 A More than one? Yes.

23 Q And so he brought a drinking
24 accusation to your attention, right?

25 MR. McPARTLAND: Object to

1 Sanders

2 the form.

3 Asked and answered.

4 A Yes.

5 Q And isn't it true that
6 Ms. Ashdown wanted to investigate that
7 particular accusation?

8 A Yes.

9 Q And isn't it true that you
10 wouldn't let her?

11 A No, I didn't not let her.

12 Q Did you allow her to go and speak
13 with the individuals that were allegedly
14 involved in the incident?

15 A She could have done that if she
16 wanted to.

17 Q Did you speak with them?

18 A I told her that it was something
19 that I was not concerned about.

20 Q You were not concerned about?

21 A I was not concerned about
22 something that, again, there was no substance
23 behind it, there was no reason to investigate
24 it.

25 Q Why did you bring it to her

1 Sanders

2 attention in the first place?

3 A Because I think it's important
4 for her to know or a manager to know what things
5 are being said about them that could be, that
6 can put them in a position where they need to be
7 mindful of whatever it is they're doing or not
8 doing and how, because, again, people look at us
9 as the managers, as the leaders, and regardless
10 of whether accusations are true or not, we
11 should be aware of them and her job wasn't in
12 jeopardy for that accusation, her job wasn't at
13 risk for that accusation, so it wasn't something
14 that needed to be investigated from that
15 perspective, whether it was true or not true.

16 Q What do you mean "it"? What's
17 "it"?

18 A Issues of drinking with employees
19 or drinking with staff.

20 Q Have you ever had, have you ever
21 gone drinking with staff?

22 A Yes.

23 Q Anyone ever talk to you about --
24 what kind of alcoholic beverages do you like to
25 drink?

1 Sanders

2 A Vodka.

3 Q Have you ever had a vodka with a
4 staff member of Equinox?

5 A Yes.

6 Q Anyone ever discuss that conduct
7 with you about being a problem at work?

8 A No.

9 Q But Maietta thought it was a
10 problem, right?

11 MR. McPARTLAND: Object to
12 the form.

13 A Maietta thought that the people,
14 that whoever it was that brought it to his
15 attention, it was a problem.

16 People brought it to his
17 attention and he thought it might be a problem,
18 so he brought it to my attention.

19 When I had a conversation with
20 her I just said, "I'm just making you aware that
21 this is what people are saying."

22 Again, I don't think it's that
23 big a deal, we don't need to do anything, but if
24 she wanted to investigate it, she could have
25 investigated, but it wasn't like there was any

1 Sanders

2 risk in her position or jeopardy in her
3 position.

4 So if someone came to me and
5 said, "Lawrence, I heard that you were out
6 drinking with your staff and it's not cool," or
7 "this is what people are saying," I would either
8 say, "Do you know what, I didn't do this
9 particular incident," or I would take heed to if
10 I did do it, say, you know, what I'm going to
11 make sure, I'm going to be mindful not to do it
12 again.

13 That's the point in bringing it
14 up.

15 If I felt that it was a threat to
16 her or a threat to her situation or jeopardizing
17 her situation, then we would have done a full
18 investigation.

19 So that's why I didn't deem it
20 necessary to do a full investigation.

21 Because, again, I'm just making
22 her aware of what people are possibly saying
23 about her so that she could be mindful of it
24 when she's managing her people.

25 That's the only reason I brought

1 Sanders

2 it to her attention.

3 Q So did you ever go and speak to
4 any of the individuals who had brought this --

5 A No, I didn't.

6 Q So you don't know whether it was
7 true or not?

8 A No, I don't know if it was true
9 or not.

10 To be very honest, it didn't
11 matter to me whether it was true or not, because
12 it wasn't, again, something that was going to
13 jeopardize her employment with Equinox.

14 Q It didn't matter whether it was
15 true or not?

16 Okay.

17 So Maietta also brought the
18 allegation to your attention that Ms. Ashdown
19 favored men over women, is that true?

20 A There were some of the female
21 trainers that felt that way.

22 You know, again, it's another bit
23 of information that if I'm a manager I would
24 want to know what people are saying about me,
25 and it was, you know, something that the female,

1 Sanders

2 some of the female trainers felt.

3 Whether it was true or not, I'm
4 not managing her on a day-to-day -- I'm not
5 micromanaging her on a day-to-day, I'm not
6 micromanaging everything she does in the club
7 every day.

8 Q You didn't investigate that?

9 A Again, that's not something that
10 would cause her to lose her employment.

11 If I don't have the substance
12 that I need where there's a lot of people are
13 coming to me complaining about that situation.

14 Q Has anybody ever told you
15 anything negative about Mauro Maietta?

16 A Of course.

17 Q Like what?

18 A That he's competitive, he's very
19 competitive.

20 Q Anything else?

21 A That's about it.

22 Q That's the only negative thing
23 that anyone's ever told you about Mr. Maietta?

24 A Yeah.

25 Q How long have you been working

1 Sanders

2 with Mr. Maietta?

3 A I worked with him for a period of
4 two years, then I didn't work with him for two
5 more years, then we have now been working
6 together again for about, I guess, two years.

7 Q And that includes during the time
8 that Mr. Maietta was supervised by Ms. Ashdown,
9 that's the only thing that was ever brought to
10 your attention about Mr. Maietta, that he's
11 competitive?

12 A Yes.

13 Q And I asked you about negative
14 things that were brought to your attention.

15 A Uh-hum.

16 Q In what way was it brought to
17 your attention in a negative way that Mr.
18 Maietta is competitive?

19 A Kerry specifically said to me
20 that she hates that he's so competitive.

21 Q Anybody else?

22 A I can't recall, to be honest.

23 Q So sitting here today the only
24 negative thing that anyone has ever told you
25 about Mauro Maietta was by Ms. Ashdown, and it

1 Sanders

2 was that he was competitive?

3 A I mean, I think it's, you know,
4 if you were to ask me who specifically said
5 this, who said that, I think that it's kind of
6 known that Mauro is a competitive person.

7 It's -- but it's -- has someone
8 specifically come to me and said, "Hey, I want
9 to complain about the fact that he's
10 competitive"? No one has really done that, but
11 I think I'm aware of how he is, so I know that
12 he's competitive. So I don't really need -- I
13 know that that can be viewed sometimes as a
14 negative thing when you're, you know, managing
15 people.

16 I have had conversations with him
17 about it, of course.

18 Q My question to you was, other
19 than Ms. Ashdown telling you that she thought
20 that Mr. Maietta was competitive, has anyone
21 ever said anything negative to you about Mr.
22 Maietta?

23 A Not that I can remember.

24 Q Did Mr. Maietta want
25 Ms. Ashdown's job?

1 Sanders

2 A No.

3 Q And what's the basis of your
4 statement?

5 A The basis of my statement is that
6 if he wanted her job when prior to us bringing
7 her on board, he would have tried to get the job
8 and he didn't do that, because when the prior PT
9 manager was let go, he was there as the fitness
10 manager and he never approached me, he never
11 came to me and said, "Do you know what, since we
12 are now in this change and we have got to get a
13 new PT manager," he never came to me and said,
14 "I want to be the PT manager."

15 It was known, obviously, he wants
16 to grow and he wants to, you know, that's
17 something that we promote, we encourage in our
18 company, for people to grow and develop.

19 So he was definitely on track to
20 wanting to be a PT manager, but at that point he
21 could have definitely come to me and said, "Do
22 you know what, I want this job."

23 He never came to me and said, "I
24 want this job."

25 He never came to me and said, "I

1 Sanders

2 want her gone, because I want her job."

3 He never did that.

4 Q Do you believe that Mr. Maietta
5 wanted to be a personal training manager?

6 A I think in his long-term goals,
7 yes.

8 Q And isn't it true that Mr.
9 Maietta had just moved over from another
10 location at the time that Ms. Ashdown came on
11 board at Soho?

12 A Yes, fairly soon, yes.

13 Q So he had just been there only a
14 couple of weeks, right?

15 A He had been there, yeah, he would
16 have been there probably a couple of weeks.

17 Q When Mr. Maietta was moved into
18 Ms. Ashdown's position, did you interview anyone
19 else for Ms. Ashdown's position?

20 A At that time I don't believe so,
21 don't recall. But I don't believe so.

22 Q Are you aware that Ms. Ashdown
23 was invited to return as a personal trainer?

24 A Yes.

25 Q And did you support that

1 Sanders

2 invitation?

3 A Yes.

4 Q How many personal trainers are
5 there at the Soho Equinox?

6 A Thirty-five to 40.

7 Q And if any of those 35 to 40
8 personal trainers had sessions improperly
9 pulled, i.e., they had stolen sessions, do you
10 believe that they should have been terminated?

11 A If any of the trainers had
12 sessions pulled improperly, do I believe they
13 should be terminated?

14 Q As the general manager of the
15 Equinox, if any of the personal trainers at Soho
16 stole sessions, do you think they should have
17 been terminated?

18 A Yes.

19 (Second amended complaint
20 was marked as Plaintiff's Exhibit 1
21 for identification, as of this
22 date.)

23 BY MR. HARMAN:

24 Q I'm handing you what's been
25 marked as Plaintiff's Exhibit 1 (handing).

1 Sanders

2 MR. HARMAN: And we have
3 individually marked, just for the
4 record, exhibits beginning with
5 one for each deposition.

6 So, for example, in the
7 Maietta deposition we began with
8 1 and we rebegan with 1 in the
9 Sanders deposition and so forth,
10 just for the record.

11 BY MR. HARMAN:

12 Q If you would please take a look
13 at this document and let me know when you're
14 done.

15 A (Perusing document.) What do you
16 want me to look at, just the first page?

17 Q Have you seen this document
18 before?

19 A Yes, I believe so.

20 Q When did you first see the
21 document?

22 A When it was communicated that
23 this lawsuit was happening.

24 Q I'm not asking you about any
25 communications with lawyers, but when did you

1 Sanders

2 first learn that this lawsuit was happening?

3 A When it was communicated by
4 Equinox's attorney.

5 Q And were you ever served with a
6 copy of this complaint?

7 A I believe I did have a copy sent
8 to me.

9 Q Were you physically handed a
10 copy?

11 A I don't recall how, if I was
12 handed a copy or if it was sent in an e-mail
13 document.

14 I don't remember.

15 Q And when do you recall first
16 receiving a copy of this document?

17 A Probably a few months ago. I
18 don't remember exactly.

19 Q A few months ago.

20 Are you aware that you are named
21 as an individual defendant in this action?

22 A Yes.

23 Q And what's your understanding of
24 that?

25 A That I'm being, I guess, sued

1 Sanders

2 individually.

3 Q For what?

4 A For I'm assuming wrongful
5 termination. I don't know. I'm not sure, I
6 guess.

7 Q Again, I'm not asking you about
8 the conversations you had with your lawyer.

9 Did you read this document?

10 A I looked through it, yes.

11 Q And did you consider being sued a
12 serious issue?

13 A Of course.

14 Q And you don't recall whether you
15 read the document or not?

16 MR. McPARTLAND: Object to
17 the question.

18 Asked and answered.

19 A No, I said I looked through it.

20 Q You did read it?

21 A I did say I looked through it.

22 Q And you said you recall reading,
23 you said you recall looking through it a couple
24 of months ago?

25 A Probably. I don't remember the

1 Sanders

2 exact date or time.

3 Q Did you read a paper copy like
4 this (indicating), or did you read it on your
5 computer?

6 A I read a paper copy.

7 Q Where did you do that?

8 A In my office with the door
9 closed.

10 Q And what did you do with that
11 paper copy?

12 A It's locked away.

13 Q Where is it now?

14 A In a file locked away.

15 Q And do you have a file on this
16 case?

17 A No.

18 Q You don't?

19 A I have a file for my personal
20 stuff that I don't want anyone else to obviously
21 see.

22 Q Where is that located?

23 A In my office.

24 Q And it's locked?

25 A Uh-hum.

1 Sanders

2 Q And it has a copy of this
3 complaint in it?

4 A Probably.

5 Q Does it have anything else
6 related to this case?

7 A No.

8 Q Is it a drawer?

9 A A file cabinet.

10 Q It's a file cabinet.
11 You put the complaint there?

12 A Yes.

13 Q And when you were reading it, did
14 you mark up anything?

15 A No.

16 Q And have you ever received any
17 other documentation related to this case?

18 A No.

19 Q Ever search for documents related
20 to this case?

21 A No.

22 Q Ever searched, do you have a
23 computer at work?

24 A Yes.

25 Q What kind of computer do you

1 Sanders

2 have?

3 A I guess a desktop.

4 Q A desktop.

5 How long have you had that
6 computer?

7 A Since I have been working at
8 Equinox Soho.

9 Q How long is that?

10 A Three years.

11 Q And has the computer ever
12 changed?

13 A I think it, I think we have
14 updated our systems probably a few months ago.

15 Q How about the hardware, did you
16 have the same hardware, the same physical
17 computer?

18 A It might be new, because IT was
19 upgrading all the computers.

20 Q Why did you say it might be new?

21 A Like the physical -- are you
22 talking about the physical computer?

23 I think it's a new physical
24 computer.

25 Q And when did that take place?

1 Sanders

2 A Within the last few months.

3 Q Within the last few months?

4 A Yeah.

5 Q Prior to that, were there any
6 other replacements of your computer?

7 A No.

8 Q So if I understand your testimony
9 correctly, you had a computer at the time that
10 you were supervising Ms. Ashdown?

11 A Uh-hum.

12 Q And you maintained that same
13 computer up until a few months ago?

14 A Yes.

15 Q And did you ever search that
16 computer for any documents related to
17 Ms. Ashdown?

18 A Did I ever search my computer
19 for -- I'm not sure I understand what --

20 Q Did you ever look for documents
21 in your computer related to Ms. Ashdown?

22 A I may have looked for old e-mails
23 when this all came up to see if I had the
24 e-mails or whatever.

25 Q I'm asking about, I'm really not

Sanders

asking you to speculate.

I'm asking you if you conducted a search in your computer for anything related to Ms. Ashdown?

A Yes.

Q When?

A When this came up, we had to go back and obviously secure whatever documents we may have had.

Q When did this come up?

A Again, I don't remember the exact date. Whenever we got contacted that we had a lawsuit against us, we needed to make sure all of the documents that we have as it relates to this are saved and not destroyed.

Q And when was that?

A Whenever, again, I don't remember the exact date, whenever a few months ago was.

Q So it's your recollection that that was a few months ago?

A Yes.

Q So you searched your new computer then?

A I didn't have a new computer

1 Sanders

2 then.

3 MR. McPARTLAND: Objection
4 to form.

5 Q So you searched your old
6 computer?

7 A Yes.

8 Q How do you know that it was your
9 old computer?

10 A Because I know my computer.

11 Q How do you know your computer?

12 A Because I have been working there
13 for three years.

14 Q How did you search your old
15 computer?

16 A Searched my e-mails and searched
17 our shared folder, which is a folder that's on
18 our shared -- on our server at corporate, so no
19 matter what computer you have, you have access
20 to that document, to that folder.

21 Q So you searched your e-mail and
22 shared folder.

23 Anything else?

24 A No.

25 Q And did you instruct anyone else

Sanders

to search their computers?

A No.

Q Did you have any conversations
with Mauro Maietta about preserving information?

A No.

Q Did you search anywhere else at
the Soho Equinox for information related to
Ms. Ashdown?

A No.

Q Did you search her former office?

A No.

Q Did you ask anyone to search her
former office?

A No.

Q Did you search your office?

A No.

Q So you said you searched for
e-mails.

Did you find any e-mails?

A I found some, yeah.

Q And what did you do with them?

A Sent them to the attorneys.

Q What did those e-mails say?

A They were about the investigation

1 Sanders

2 into the sessions and about, you know, what we
3 were doing.

4 Basically most of the e-mail
5 exchange was about that, and the conversations
6 that were being had.

7 Q Who were the e-mails from?

8 A I believe that all parties on
9 the -- Joe, Liz, Minton, David Harris, Matt
10 Plotkin. I believe they were all copied on most
11 of those e-mails.

12 Q So you found e-mails concerning
13 an investigation and what was going on?

14 A Yes.

15 MR. McPARTLAND: Object to
16 the form.

17 Q And a conversation.

18 I'm just trying to understand.

19 And approximately how many
20 e-mails did you find?

21 A Going back and forth probably, I
22 mean, probably five to 10.

23 I'm not sure exactly.

24 Q Did you keep copies of those?

25 A No.

1 Sanders

2 Q How did you forward them to your
3 attorneys?

4 A Forwarded it to their e-mail.

5 Q So you clicked forward and
6 forwarded the e-mails that you found to the
7 attorneys?

8 A Or the HR department, you know,
9 or both parties.

10 Q Did the instruction to preserve
11 e-mails or information come from the HR
12 department?

13 MR. McPARTLAND: Objection.

14 Q You can answer.

15 A I believe so.

16 Q And who in the HR department
17 instructed you to preserve information?

18 A Probably, I'm thinking Matt
19 Herbert. I believe it was from him.

20 Q And it's your recollection that
21 that took place a few months ago?

22 A Yes.

23 Q And how did he convey that
24 instruction to you?

25 A I believe we had a conference

1 Sanders
2 call, if I'm not mistaken. We had a conference
3 call with the attorneys and all of us on it to
4 discuss --

5 MR. McPARTLAND: Nothing
6 about what was discussed on the
7 call.

8 A Right.

9 No, just told us to preserve.

10 Q Outside of conversations that you
11 have had with your attorneys, and that would
12 include any person or over the phone or even
13 e-mails with your attorneys.

14 Did Matt Herbert independently
15 discuss the preservation of information
16 regarding this case with you?

17 A I don't recall that.

18 Q But it was your understanding
19 that you needed to preserve information?

20 A Yes.

21 Q And you told me what you did and
22 what you didn't do, right?

23 A Yes.

24 Q Who else was on that call?

25 A Which call?

1 Sanders

2 Q The call that you just described.

3 A Joe, Matt Plotkin, Matt Herbert
4 and Mauro, I believe, and Joe and myself.

5 Q We talked about some of the other
6 things that Mauro raised with you concerning
7 Ms. Ashdown. We talked about several of those.

8 Did Mauro Maietta ever accuse
9 Ms. Ashdown of not responding to his e-mails?

10 A Not that I recall.

11 Q And did Ms. Ashdown ever tell you
12 that Mauro had made up a fake e-mail address?

13 A Yes, she did.

14 Q She did?

15 A Yeah, she said that.

16 Q Okay.

17 What did she say? How did that
18 come up?

19 A It came up because there was some
20 miscommunication about something. I don't
21 recall what it was specifically.

22 And I think she was looking for
23 communication from him or he was looking for
24 communication from her and they both were
25 expecting some form of communication, and he

1 Sanders

2 said he sent it to her, I think, and she said
3 she never received it.

4 And then she said that she felt
5 that he was sending whatever he was trying to
6 communicate to her to some e-mail that was not
7 her e-mail.

8 Q So she accused him of making up a
9 fraudulent e-mail?

10 A Something along those lines, yes.

11 Q And did you investigate that?

12 A No.

13 MR. HARMAN: For the
14 record, Plaintiff's Exhibit 1 is
15 the second amended complaint in
16 this action, with this action Civ
17 number 13 CV 1374, and it's dated
18 May 24, 2013.

19 Q Do you have the ability to log
20 onto Mauro Maietta's computer?

21 A Under my own name, yes, but not
22 under his login.

23 Q Could you access his login if you
24 wanted to?

25 A No.

1 Sanders

2 Q And when Ms. Ashdown accused Mr.
3 Maietta of making up a fraudulent e-mail
4 address, did you ever sit with her and look at
5 Mr. Maietta's computer?

6 MR. McPARTLAND: Object to
7 the form.

8 You can answer.

9 A I don't recall.

10 Q When Mr. Maietta made these
11 accusations of session stealing to you, did he
12 bring a piece of paper to you?

13 MR. McPARTLAND: Object to
14 the form.

15 A No, I'm not -- no -- what do you
16 mean?

17 Q Well, I mean you described this
18 whole scheme where you believe that Ms. Ashdown
19 stole this money from Equinox and so forth and
20 that that was brought to your attention by Mr.
21 Maietta, right?

22 MR. McPARTLAND: Object to
23 the form.

24 Q How did he bring that to your
25 attention? He obviously had a discussion with

1 Sanders

2 you, correct?

3 A With commission reports.

4 Q So he brought commission reports
5 to you?

6 A Yes.

7 Q And what did you do with those?
8 Did you take them from him?

9 A I probably did at the time, yes.

10 Q And what did you do with them?

11 A Looked them over.

12 Q Where are they now?

13 A I have no idea. I probably
14 destroyed them.

15 Q You probably destroyed them?

16 A I don't know. I don't know. I
17 didn't keep them.

18 Q Did you ever show them to
19 Ms. Ashdown?

20 A I don't remember.

21 (A two-page letter dated
22 January 9, 2013 was marked as
23 Plaintiff's Exhibit 2 for
24 identification, as of this date.)
25

1 Sanders

2 BY MR. HARMAN:

3 Q I'm handing you what has been
4 marked as Plaintiff's 2.

5 MR. HARMAN: For the
6 record, it's a January 9th letter
7 from my office to Joseph
8 Matarazzo referencing Kerry
9 Ashdown and others.

10 Q (Handing.)

11 A (Perusing document.) Okay.

12 Q Have you seen this document
13 before?

14 A I'm not sure. I'm not sure.

15 Q Have you had an opportunity to
16 read the document?

17 A I've glanced through it. I
18 didn't read the whole thing.

19 Q Do you understand what the
20 document means?

21 A You are notifying Joe Matarazzo
22 that you are representing Kerry Ashdown and she
23 obviously has a claim or is about to pursue a
24 claim against Equinox.

25 And, you know, and these people

1 Sanders

2 are, I guess, the people listed, and make sure
3 that things are preserved.

4 Q And you see that day, January 9,
5 2013?

6 A Yes.

7 Q And do you have any recollection
8 as to whether you received this document or not?

9 A I don't recall if I got this
10 document or not.

11 Q Do you recall having any
12 conversations with Joseph Matarazzo in January
13 of this year regarding Ms. Ashdown?

14 A Not that I recall, no.

15 Q And do you recall having any
16 conversation with the human resources department
17 in January 2013 regarding Ms. Ashdown?

18 A Nothing I can recall.

19 Q And have you ever conducted a
20 search of your BlackBerry for any information
21 regarding Ms. Ashdown?

22 A No.

23 Q And how long have you had the
24 BlackBerry?

25 A Since 2008.

1 Sanders

2 Q Since you terminated Ms. Ashdown,
3 have you had any conversations with anyone
4 regarding Ms. Ashdown?

5 A No.

6 Q Other than lawyers, obviously?

7 A No.

8 Q Not at all?

9 A No.

10 Q And you testified that you phoned
11 Ms. Ashdown after you terminated her, correct?

12 A Yes.

13 Q And did you have any
14 conversations with anyone around that time about
15 that phone conversation?

16 A Yes.

17 Q So you did speak with someone
18 about Ms. Ashdown?

19 A Right after that phone
20 conversation, yes.

21 Q So do you want to correct your
22 earlier testimony?

23 You did, in fact, speak with
24 somebody about Ms. Ashdown, correct, after you
25 terminated her?

1 Sanders

2 A Oh, yes.

3 Q Who did you speak with?

4 A Candra.

5 Q And what did you say?

6 A Actually, Candra was the one who
7 told me about her being better, and I said that
8 I just called and reached out to Kerry, but she
9 didn't obviously respond to me, and I said what
10 I said and, you know, I hung up the phone.

11 Q And did you speak with anyone
12 else regarding Ms. Ashdown after you terminated
13 her?

14 A I don't recall.

15 Q Did you text anyone regarding
16 Ms. Ashdown after you terminated her?

17 A No.

18 Q Did you e-mail anyone regarding
19 Ms. Ashdown after you terminated her?

20 A No.

21 Q After you terminated Ms. Ashdown,
22 did you speak with any trainers?

23 A Speak with any trainers?

24 Q About Ms. Ashdown?

25 A I don't believe so, no.

1 Sanders

2 Q Did you give them any
3 instructions regarding Ms. Ashdown?

4 A No, I don't believe I gave them
5 any instructions.

6 Q Did anyone ever ask you where
7 Ms. Ashdown is?

8 A I don't remember if anyone ever
9 asked me that.

10 Q So you terminated Ms. Ashdown,
11 right?

12 A Uh-hum.

13 Q And she was escorted out of the
14 club, right?

15 A Uh-hum.

16 Q Abruptly, right?

17 MR. McPARTLAND: Object to
18 the form.

19 A I wouldn't say abruptly, but,
20 yes, she was escorted out of the club.

21 Q Before the day ended, right,
22 right after you terminated her?

23 A Yes.

24 Q In front of everyone?

25 A Yes.

1 Sanders

2 Q Now, if that happened to you, how
3 would you feel?

4 A Of course it's not --

5 MR. McPARTLAND: Objection
6 to form.

7 You can answer.

8 Q I'm asking you.

9 THE WITNESS: What?

10 MR. McPARTLAND: Object to
11 the form, but you can answer I
12 said.

13 Q How would you feel?

14 A Of course it's not a good
15 feeling.

16 Q Would you consider it a
17 humiliating experience if you were escorted out
18 of the club?

19 A It wouldn't be a good feeling.

20 Q Do you believe that that
21 termination was handled properly?

22 A Do I believe what?

23 Q That that termination was handled
24 properly?

25 A Yes, I do.

1 Sanders

2 Q Isn't it true that you told
3 trainers not to give references for Ms. Ashdown?

4 A It was told -- I wasn't the one
5 that told someone that. It was the human
6 resources, probably, department, I believe, that
7 said, you know, we shouldn't do that.

8 Q Did you instruct any trainers not
9 to give references for Ms. Ashdown?

10 A I don't recall giving
11 instructions specifically to someone to not give
12 them.

13 Q Did you tell any trainer not to
14 give a reference to Ms. Ashdown?

15 A Again, I don't recall that.

16 Q Did you e-mail any trainers and
17 tell them not to give references for
18 Ms. Ashdown?

19 A I don't recall.

20 Q Were you aware that during
21 Ms. Ashdown's tenure at Equinox that she became
22 ill?

23 A Yes.

24 Q When did you become aware of
25 that?

1 Sanders

2 A When she told me.

3 Q When did she tell you that?

4 A I'm guessing maybe June 2011.

5 Q And how did she tell you?

6 A She told me in my office. She
7 came in my office and had a conversation with
8 me.

9 Q What did she say?

10 A That she's got to go to the
11 doctor and she's got to get treatment and, you
12 know, so she was going to beat, you know, deal
13 with what she's got to deal with and, you know,
14 she told me not to share with anyone, because
15 she didn't want me to tell anyone, and I
16 respected her wishes and I didn't tell anyone,
17 didn't talk to anyone.

18 She said, "I don't want my staff
19 to know. I don't want anyone to know."

20 And she said, "You," I think she
21 may have told Mauro and possibly Liz Minton, so
22 she told me that, you know, she was going to get
23 treated and it wouldn't affect her work and she
24 would beat this, you know, and I supported that.

25 Q Did she say anything else?

1 Sanders

2 A I don't recall anything else.

3 Q Were you ever aware of any
4 conflict between the scheduling of days for Mr.
5 Maietta versus Ms. Ashdown?

6 A I think they might have had some
7 scheduling conflicts where they covered for each
8 other, you know, because there always has to be
9 one of them in the club.

10 So I don't recall exactly what
11 the issue was, I mean how the issue came about,
12 but I do recall something along those lines,
13 that there was some scheduling issues where they
14 seemed not to be on the same page.

15 Q Now, if there is a conflict
16 between scheduling, I take it there always has
17 to be a manager in the club, is that correct,
18 when the club is open?

19 A Yes.

20 Q And you are not always in the
21 club, correct?

22 A Correct.

23 Q And if there's a conflict
24 between, a scheduling conflict between you and
25 Mauro, who has the final say?

1 Sanders

2 A A scheduling conflict between me
3 and Mauro?

4 Q Yes.

5 A I probably would have the final
6 say.

7 Q And prior to June, when did
8 Ms. Ashdown start working at Equinox?

9 A I believe February 2011.

10 Q So she had been working there
11 approximately five months or so before you
12 learned that she had cancer?

13 A Yeah, I guess.

14 Q Did she tell you what type of
15 cancer she had?

16 A I believe she did at the time,
17 but I don't recall exactly what it is or what it
18 was.

19 Q Go ahead.

20 A What?

21 Q Go ahead.

22 A I mean, again, I believe she did
23 tell me at the time specifically what it was,
24 but I don't remember asking in depth or, you
25 know.

1 Sanders

2 Q As you sit here today, do you
3 know what type of cancer?

4 A No, I don't.

5 Q And prior to June of 2011, did
6 anyone express any concerns about, to you, about
7 Ms. Ashdown's health?

8 A No.

9 Q Did anyone express any concerns
10 to you about Ms. Ashdown's appearance?

11 A No.

12 Q Did Mr. Maietta ever tell you
13 that he didn't think Ms. Ashdown was up for the
14 job?

15 A No.

16 Q Did you notice a change in
17 Ms. Ashdown's appearance during her employment?

18 A I mean, outside of her being
19 maybe tired, no.

20 Q So you noticed her being tired?

21 A She looked a little tired
22 sometimes.

23 Q And when was that?

24 A When she started getting
25 treatment again.

1 Sanders

2 Q So that was after June of 2011?

3 A Yes.

4 Q And did you approach her about
5 that?

6 A No, I don't think so. I don't
7 recall.

8 Q Did you express any concern?

9 A No, I didn't express any concern.

10 Q Okay.

11 Did you ask her if she needed
12 some time off?

13 A I don't recall if I asked her
14 that, no.

15 Q Did you ever ask her if she
16 needed to leave work, get some rest?

17 A I don't recall ever asking her
18 that either.

19 Q Did you make any other
20 observations about Ms. Ashdown's physical
21 appearance?

22 A No.

23 Q And were you aware that she was
24 undergoing chemotherapy?

25 A Yes.

1 Sanders

2 Q And were you aware that she was
3 undergoing radiation?

4 A Yes.

5 Q And what were Ms. Ashdown's
6 working hours?

7 A Three days a week, probably the
8 expectation is maybe ten hours a day, you know,
9 three days a week and then two days a week
10 probably like eight to nine hours.

11 So probably 45 hours, maybe 50.

12 Q And was Ms. Ashdown working those
13 amount of hours?

14 A She worked, yes.

15 Q Was she working longer than that?

16 A I don't know if she worked longer
17 than that.

18 I know she worked, she told me
19 that she was going to work and this was not
20 going to stop her from working and she was going
21 to do what she needed to do, and, you know,
22 that's what she wanted to do.

23 Q Did she arrive to work before
24 you?

25 A Sometimes.

1 Sanders

2 Q Sometimes. What does that mean?

3 A When I get to the club, she's
4 there, you know. If she's there, that means she
5 arrived before me.

6 Q What are your working hours?

7 A My working hours are usually 9:00
8 to 8:00, 9:00 to 9:00.

9 I work anywhere from 11 to 12
10 hours a day, Monday, Tuesday, Wednesday;
11 Thursdays I put in that same thing, about 11
12 hours, 9:00 to 8:00, you know. Saturdays I
13 work, you know, probably 9:00 to about 6:00, so
14 I'm working about 50 hours a week.

15 Q So you don't work on Fridays or
16 Sundays?

17 A Correct, unless it's needed.

18 Q Did Mr. Maietta ever express any
19 concerns about Ms. Ashdown's physical
20 appearance?

21 A Not to me.

22 Q Did any trainers ever express
23 concern about Ms. Ashdown's physical appearance?

24 A Not to me.

25 Q Did they ever express any

1 Sanders

2 concerns about Ms. Ashdown's ability to, and I'm
3 talking about the trainers now, Ms. Ashdown's
4 ability to perform her job?

5 A Not that I'm aware of, no.

6 Q Did any clients or members, I
7 guess you call them, any members of Equinox ever
8 complain about Ms. Ashdown?

9 A Not that I'm aware of.

10 Q Do you think Ms. Ashdown was a
11 good trainer?

12 A I guess.

13 Q You guess.

14 Did she ever train you?

15 A No.

16 Q Did you ever ask Ryan about her
17 training ability?

18 A Did I ever ask Ryan? No.

19 About her training abilities?

20 Q Yes.

21 A No.

22 Q Did Mauro think that Ms. Ashdown
23 was a good trainer?

24 MR. McPARTLAND: Object to
25 the form.

111

1 Sanders

2 You can answer.

3 Q Do you understand the question?

4 It's a pretty simple question.

5 Do you understand it?

6 A Of course.

7 We never really talked about it,
8 to be honest.

9 Q You never talked with Mauro about
10 how --

11 A About how she was as a trainer?
12 No. We never really talked about that.

13 Q Ever?

14 A About how she was as a trainer?
15 No.

16 If she was a good trainer or not
17 a good trainer, no.

18 Q Did you ever train with Mauro?

19 A Yes.

20 Q Is he a good trainer?

21 A Yes.

22 Q What makes him a good trainer?

23 A He's cognizant of the client's
24 movement, he pays attention to what you are
25 doing, he corrects you while you are doing what

1 Sanders

2 you're doing.

3 So he's very attentive to the
4 client.

5 And, you know, the program was a
6 good program.

7 Q And as part of your job
8 responsibilities as a general manager, do you
9 endeavor to learn about the training abilities
10 of people you manage?

11 A I train with other trainers, yes.

12 Q Have you ever trained with Mr.
13 Diaz?

14 A Mr. Diaz?
15 I don't know who you are speaking
16 of.

17 Q Who's the fitness manager right
18 now?

19 A Darwin.

20 Q Darwin.
21 What's his last name?

22 A Diaz, right.

23 Q Have you ever trained with
24 Mr. Diaz?

25 A No, I haven't.

1 Sanders

2 Q Do you have an opinion as to
3 whether he's a trainer or not?

4 A No, I don't.

5 Q Did you ever ask Mauro whether he
6 was a good trainer?

7 A No, I haven't.

8 Q So you don't know?

9 A No, I'm not sure.

10 MR. HARMAN: I would like
11 to take another short break and
12 take a lunch break in about an
13 hour.

14 Okay.

15 (Discussion off the record.)

16 (Whereupon, at 12:16 p.m., a
17 recess was taken.)

18 (Whereupon, at 12:32 p.m.,
19 the deposition resumed with all
20 parties present.)

21 MR. HARMAN: On the
22 record.

23 BY MR. HARMAN:

24 Q Mr. Sanders, have you ever had an
25 employee who, other than Ms. Ashdown, who has

114

1 Sanders

2 been diagnosed with a serious illness?

3 A Not that I can recall off the top
4 of my head.

5 Q Have you ever had an employee who
6 has become pregnant?

7 A Probably, but I can't think of it
8 off the top of my head.

9 Q Have you ever had an employee who
10 has had an immediate family member who has
11 passed away?

12 A Yes, I have had that before,
13 yeah.

14 Q Do you know what the Family
15 Medical Leave Act is?

16 A The Family Medical Leave Act?

17 MR. McPARTLAND: Object to
18 form.

19 You can answer.

20 A Yeah, I have heard of it, yes, of
21 course.

22 Q Have you ever had any employees
23 who have taken medical leave?

24 A Not that I recall, no.

25 Q Have you ever had any employees

115

Sanders

take bereavement leave?

A Yes.

Q And today does an employee ask you for permission to take bereavement leave?

A Yes.

Q And do you grant that permission?

A Obviously if they had a bereavement, yes, we would have to grant it.

Q And you do that in conjunction with the human resources department?

A Yes.

Q And does the human resources department have policies and procedures with respect to bereavement leave?

A Yes.

Q And does the human resources department have policies and procedures with respect to leave for medical issues?

A Yes.

Q What are they?

A The Family Medical Leave Act.

Q What is that?

MR. McPARTLAND: Object to the form.

1 Sanders

2 You can answer.

3 A If someone has a medical
4 situation and they can't perform their duties or
5 they need to take time off because of that, they
6 would go through the proper steps, getting
7 doctors' notes, whatever, to take time off.

8 And I'm pretty sure that there is
9 a time frame that you have to take that time
10 off, and you're ensured to have your job when
11 you come back from that time off, not
12 necessarily the same place, but at least the
13 same job.

14 Q And have you ever had an employee
15 that has taken medical leave?

16 A Not that I recall.

17 Q Let's go back to the situation
18 with the e-mail.

19 So did you ever confront Mr.
20 Maietta about this accusation that he sent a
21 fake e-mail?

22 A We might have talked about it,
23 but I don't really remember, to be honest.

24 Q What makes you think that you
25 might have talked about it?

1 Sanders

2 A Because I generally address most
3 issues or at least my style is if something is
4 brought to my attention, I will address it.

5 Q Well, do you think making up a
6 fake e-mail address to one supervisor is a
7 serious issue?

8 A Of course that would be a serious
9 issue.

10 Q And since it was a serious issue,
11 would that warrant a discussion with the
12 employee reporting the accusation?

13 MR. McPARTLAND: Objection.

14 A Yeah. Yes.

15 Q But you don't recall whether you
16 had a discussion or not?

17 A I don't recall.

18 Q Did you ever see a fake e-mail
19 address?

20 A I don't recall seeing a fake
21 e-mail address.

22 Q When you say you don't recall, is
23 it possible that you did?

24 A I mean, I will say anything is
25 possible, but I don't remember. I don't

1 Sanders

2 remember seeing a fake e-mail address.

3 Q Well, that's an unusual
4 circumstance, right, to see a fake e-mail
5 address, right?

6 A Yeah, it would be unusual.

7 Q Right.

8 A So in my memory right now, I
9 don't recall seeing a fake e-mail address.

10 Q Do you recall going into
11 Ms. Ashdown's and Mr. Maietta's office with
12 Ms. Ashdown around the time that she brought
13 this serious issue to your attention?

14 MR. McPARTLAND: Object to
15 the form.

16 A We probably did. I don't
17 remember.

18 Q What makes you think you probably
19 did?

20 A If you're saying, if you're
21 asking me the question, maybe we did. I don't
22 remember.

23 Q You don't remember going in?

24 A No.

25 It was two years ago, I don't

1 Sanders

2 remember everything.

3 Q I'm only asking you about what
4 you remember.

5 A Right.

6 Q I mean, you know, you remember
7 some pretty specific details about other things
8 regarding Ms. Ashdown, so I'm asking you about
9 other situations with employees.

10 (A document Bates stamped
11 EQX-6358 was marked as Plaintiff's
12 Exhibit 3 for identification, as of
13 this date.)

14 BY MR. HARMAN:

15 Q I'm handing you what has been
16 marked for identification as Plaintiff's Exhibit
17 3 (handing).

18 Please take a look at it.

19 MR. HARMAN: For the
20 record, it's an e-mail printout
21 with Matthew Herbert's name in
22 the heading, but it is an e-mail
23 that purports to be from Lawrence
24 Sanders to Joe Matarazzo and
25 others dated September 1, 2011.

Sanders

BY MR. HARMAN:

Q Do you recognize this document?

A Yes.

Q Did you draft this document?

A Yes.

Q Did you draft it on September 1,
2011?

A Yes.

Q Is there anything in this e-mail
that is inaccurate?

A No.

Q And is it true that Ms. Ashdown
felt Mauro Maietta had something to do with it?

A That's what I believe, yes.

Q And did you investigate that?

A Yes.

Q So Ms. Ashdown alleges that Mauro
Maietta had something to do with the session
pulling, right?

A She never said that to me
directly, but that's what I believe she --

Q That's what this e-mail says,
right?

A That's what I believe she felt.

1 Sanders

2 Basically, she feels, that's what I believe she
3 felt.

4 Q Did she tell you that or not?

5 A All she said is, "I know who did
6 this."

7 Q Did she tell you that she
8 believes Maietta was a part of it?

9 A She never said specifically to me
10 that she felt he was the one that did this.

11 Q So you are telling me on the
12 record under oath that she never told you that
13 she felt Mauro Maietta was a part of this?

14 MR. McPARTLAND: Objection.

15 Asked and answered.

16 Q I want the record to be clear.

17 A She never said to me according to
18 this situation that she believed Mauro had
19 something to do with it.

20 Q But you felt in earnest and in
21 your role as the general manager of the whole
22 Soho location that she felt Mauro had something
23 to do with it?

24 A Yes.

25 Q And you now are testifying that

1 Sanders

2 you investigated that?

3 A I'm testifying that, obviously,
4 yes, I looked into it, yes.

5 Q You investigated it?

6 A Yes, I investigated it.

7 Q Does "look into it" and
8 investigate mean the same thing to you?

9 A To me, yes, it does.

10 Q So then we'll go with
11 investigate.

12 What did you do to investigate
13 whether Mauro Maietta had anything to do with
14 this?

15 A I obviously questioned him about
16 the sessions, questioned him about the pulling
17 of the sessions, you know, the expiring sessions
18 and the reinstatement of the sessions,
19 questioning him about that information.

20 Q So you questioned Mr. Maietta?

21 A Yes.

22 Q Where did that conversation take
23 place?

24 A In the club, in the office.

25 Q So you brought him in, you asked

1 Sanders

2 him into your office?

3 A Yeah.

4 Q And you questioned him?

5 A We talked about it, yes, we
6 questioned him.

7 Q Was anybody else present?

8 A No.

9 Q But you just said "we questioned
10 him."

11 What do you mean by that?

12 A I meant me.

13 Q You questioned him?

14 A Yes.

15 Q And what did you say to him?

16 A I just said, "Did you have
17 anything to do with this? Did you have anything
18 to do with the pulling of these sessions?"

19 Q And what did he say?

20 A He said no. He said, "That my
21 codes aren't used. I'm not" -- "I wasn't
22 around. I wasn't here in the building when they
23 were done, when it was done."

24 Q And did you corroborate whether
25 or not he was in the building when it was done?

1 Sanders

2 A Yes.

3 Q You did.

4 What did you do to do that?

5 A We have surveillance video in our
6 club.

7 Q And did you review surveillance
8 video?

9 A Yes, I did.

10 Q And when did you do that?

11 A During the week of investigating
12 this situation.

13 Q So you reviewed surveillance
14 video?

15 A Yes.

16 MR. HARMAN: We're going
17 to call for the production of the
18 surveillance video that was
19 reviewed during the week of your
20 investigation, as you call it.

21 For the record, no
22 surveillance video has been
23 identified or produced in this
24 action even though it was clearly
25 called for as part of the --

1 Sanders

2 A Well, part of -- I'm sorry.

3 Q Please, let me finish.

4 MR. McPARTLAND: There is
5 no question pending.

6 THE WITNESS: Okay.

7 Q Who was present when you
8 purportedly looked at this surveillance video?

9 A I honestly don't remember who was
10 present, if there was anyone present. I don't
11 remember.

12 Q But you remember looking at
13 surveillance video?

14 A Yes, I do.

15 Q Where did you look at
16 surveillance video?

17 A It's in my office.

18 Q And what did you see, if
19 anything, on the surveillance video?

20 A To see if Mauro was in the club
21 during the time that the sessions were pulled,
22 if he entered the building or left the building
23 during that time.

24 Q How much surveillance video did
25 you look at?

1 Sanders

2 A I looked at the video from the
3 time stamps on, you know, from the time stamps
4 of when the sessions were pulled.

5 So if they were pulled, again, I
6 don't remember the exact time, but if the
7 sessions were pulled at say 2:00 in the
8 afternoon, I looked at video from before that
9 time all the way up until that time.

10 Q I see.

11 So from before that time, what
12 does that mean to you?

13 A If the sessions were pulled at
14 2:00, I looked at video prior to 2:00 p.m. on
15 the particular day that the sessions were pulled
16 to see if Mauro was in the club.

17 Q What time does video start?

18 A It's basically ongoing.

19 Q So how much video did you look
20 at?

21 A I looked at the video from the
22 dates of the pulled sessions and the time stamps
23 of those sessions and, again, the amount of time
24 prior to the sessions being pulled.

25 Q Well, the video is 24-hour video,

1 Sanders

2 right?

3 A Uh-hum.

4 Q And if the sessions were pulled
5 at 2:00, right, it's your testimony that you
6 looked at all the video on that date before
7 2:00, correct?

8 A Meaning the hours of that
9 particular day.

10 So if it was pulled on Saturday
11 at 2:00 in the afternoon, that means the person
12 would have had to have been in the club at 2:00
13 in the afternoon on that Saturday to pull the
14 sessions.

15 They would have to have been
16 there.

17 So I'm going to look at the video
18 prior to 2:00 all the way up until 2:00 to see
19 if that individual or who is in the club during
20 that time prior to 2:00, because they would have
21 to have been in the club to pull the session.

22 So that's the video that I looked
23 at.

24 Did I look at the last three days
25 worth?

1 Sanders

2 No, because the club closes every
3 day, so there's no one in the club. You can't
4 have access to the club.

5 And, again, the session was
6 pulled on a particular day and time, so I would
7 have to view during that time frame before the
8 sessions were pulled.

9 Q How much video would you say you
10 looked at? How much time did you spend looking
11 at video?

12 A A couple of hours.

13 Q So if sessions were pulled at
14 2:00 in the afternoon, you looked at a couple of
15 hours of video prior to that session being
16 pulled; is that your testimony?

17 A Yeah.

18 Q So you came to the conclusion
19 that there was no way that Mr. Maietta could be
20 involved in this in part because you looked at a
21 couple of hours of video prior to when the
22 session was being pulled?

23 A Correct.

24 Q And did you notice whether during
25 this few hours of video that you looked at, did

1 Sanders

2 you notice whether Ms. Ashdown was on the video?

3 A Yes.

4 Q So you did see her on that video?

5 A Yes.

6 Q I take it this video is pretty
7 important to your investigation, right?

8 A Yes.

9 Q Did you show the video to
10 anybody?

11 A I don't remember.

12 Q Did you preserve the video?

13 A No.

14 Q Did you e-mail anybody about the
15 video?

16 A I believe it was definitely
17 talked about with Matt Plotkin.

18 Q Please just answer my question.

19 Did you e-mail anybody about the
20 video?

21 A E-mail anybody about the video?

22 No, I don't believe I e-mailed
23 anyone about the e-mail.

24 Q Is there any evidence whatsoever
25 as you sit here today about this video?

1 Sanders

2 A No, probably not.

3 Q So you destroyed it?

4 A No, I didn't destroy it.

5 Q But you didn't save it?

6 A Didn't save it.

7 Q You didn't e-mail anyone about
8 it?

9 A No.

10 Q Didn't write a memo about it?

11 A I didn't write a memo about it,
12 no.

13 Q So you have a video that supports
14 your investigation into someone stealing, but it
15 doesn't exist anymore, right?

16 A Correct.

17 Q And how long does the video
18 automatically save itself?

19 A Probably a month's worth, and it
20 just kind of takes over itself.

21 Q So it saves itself --

22 A Like if the video saves on the
23 system for probably like a month --

24 Q How do you know that?

25 A Because that's what our video

1 Sanders

2 people that set up the cameras told me at the
3 time, that, you know, that's what I knew about
4 the video at the time.

5 Q So you have gotten some training
6 on the video?

7 A Yes.

8 Q Do you know how to save video?

9 A Yes.

10 Q But you didn't save this video?

11 A No.

12 Q Did you notice whether Ryan was
13 on the video?

14 A Don't remember.

15 Q How about Bobby, did you notice
16 whether he was on the video?

17 A I don't remember.

18 Q This investigation that you
19 conducted into whether Mauro Maietta was part of
20 this session pulling scheme, you said you talked
21 to him?

22 A Yes.

23 Q Did you memorialize that
24 conversation?

25 A What do you mean?

1 Sanders

2 Q Did you e-mail anybody about it?

3 A No.

4 Q And so there is no record of it,
5 right?

6 A Probably not.

7 Q And did you speak with anyone
8 else as part of your investigation into Mr.
9 Maietta?

10 A Probably Matt Plotkin.

11 Q Why do you say probably?

12 A Because that's who my direct boss
13 is, so that's who I usually first talk to.

14 Q What would he know about whether
15 Mr. Maietta stole the sessions?

16 A He would know -- you asked about
17 the video, right?

18 Q Yes.

19 A He would know when I was, during
20 the investigation into this matter, I believe I
21 did communicate to him that we watched -- I
22 watched the video, not we, I watched the video
23 and Mauro was not in the building as
24 specifically pertains to Mauro, having the
25 belief that he did have something to do with

1 Sanders

2 this or not.

3 And I believe I did let Matt know
4 that I watched the video and Mauro wasn't in the
5 club during the time that the sessions were
6 pulled.

7 So I'm pretty sure that I had
8 that conversation with Matt.

9 Q Why are you pretty sure about
10 that?

11 A Because, again, he was involved
12 in, I communicated pretty much everything to him
13 as it relates to this situation.

14 This wasn't me on an island by
15 myself saying "I'm going to make these
16 decisions. I'm going to do these different
17 things."

18 I was definitely communicating to
19 my boss, my direct boss, what I was doing and
20 how I was doing what I was doing.

21 So I'm pretty confident that I
22 told him about that.

23 Q How many sessions were involved
24 in this investigation?

25 A I believe -- I want to say either

1 Sanders

2 18 or 21, something around that number.

3 Q And you're positive based on your
4 investigation that Mr. Maietta wasn't involved
5 in any of these 17 or 18 sessions?

6 A Yes.

7 Q And did you look at video with
8 respect to all 17 or 18 of these sessions?

9 A Yes.

10 Q You did?

11 A To see if he was in the building
12 during the time those sessions were pulled.

13 Most of them were pulled over a
14 two, maybe three-day period at the most.

15 So it wasn't like they were
16 pulled individually on multiple days.

17 They were pulled on Saturdays and
18 it was a group of them that were pulled on
19 Saturday.

20 So it wasn't like I had to watch
21 18 days' worth of video.

22 Q Did you watch more than one day
23 of video?

24 A I watched the days that the
25 sessions were pulled.

1 Sanders

2 Q I'm asking if you watched --
3 because earlier you testified you only watched a
4 couple of hours of video leading up to one
5 session.

6 So let's talk about what you
7 recall you actually looked at.

8 Did you look at more than a
9 couple of hours of video leading up to one
10 session?

11 A It wasn't one session. It was
12 multiple sessions that were pulled and on the
13 days those sessions were pulled, I looked at
14 video to see if Mauro was in the club on those
15 days that those sessions were pulled.

16 That's what I looked at. And I
17 looked at the video prior to the time stamp of
18 when the sessions were pulled.

19 Q Have you ever used anyone else's
20 login ID to log into someone else's computer?

21 A No.

22 Q Are you positive of that?

23 A I don't use anyone else's ID
24 ever.

25 Q Ever, in the five years, you

136

1 Sanders

2 never used anyone's login ID to log into a
3 computer?

4 MR. McPARTLAND: Objection.

5 Asked and answered.

6 A I don't use anyone else's login.
7 I have my own. I don't need to use anyone
8 else's.

9 Q Have you ever been aware of
10 anyplace else using someone else's login ID to
11 log in to a computer?

12 A Possible, I don't know.

13 Q I'm not asking about
14 possibilities --

15 A I don't know.

16 Q As a manager of a gym, have you
17 ever become aware of anyone using a login ID to
18 log into a computer that wasn't theirs?

19 MR. McPARTLAND: Object to
20 the form.

21 A I'm not aware of that.

22 Q So you're not aware of it?

23 A No.

24 Q So if someone pulled a session at
25 6:00 in the evening, let's say, how much video

1 Sanders

2 would you have looked at on that day to
3 determine that Mr. Maietta wasn't in the
4 building that day?

5 A I would look at video for a few
6 hours before 6:00.

7 Q So what is a few hours in your
8 mind?

9 A I would look at 3:00 in the
10 afternoon to 6:00 to see if, you know, because
11 you, again, you would have to physically be in
12 the building to pull the session at 6:00.

13 So I would want to see if prior
14 to 6:00 p.m. if the person is in the building or
15 prior to 6:00 p.m. have they left the building.

16 So you want to see if they're in
17 there, how long were they in the club, and did
18 they leave. That's basically what I can see or
19 watch from the video.

20 Q Earlier I thought you said that
21 you just looked at video leading up to the
22 session.

23 Are you now telling me you looked
24 at video after the session was pulled?

25 A What I'm saying is, I'm watching

1 Sanders

2 video up until the time that the session is
3 pulled, meaning to see who's in the building or
4 if they've left the building prior to that
5 session being pulled.

6 So that's all I'm looking at.

7 Q Okay.

8 A Because I need to know if they're
9 in the building when that session was pulled.

10 That's the most important thing.

11 Q Right.

12 If a session was pulled at say
13 6:00, you said --

14 A I'm going to before 6:00 to
15 watch.

16 Q For three hours, right?

17 A Right.

18 Q Like for three hours, but if
19 someone got to the building in the morning and
20 stayed in their office throughout the day, would
21 you know whether or not they were in the
22 building or not?

23 A If they came in the building
24 early and stayed in the building?

25 Q If they came into the building at

1 Sanders

2 8:00 in the morning?

3 A And didn't leave the building,
4 you are saying?

5 Q Yes.

6 A Then obviously if I didn't watch
7 from 8:00 in the morning, then, no, I wouldn't
8 know that they were in the building.

9 Q Just please answer my question.
10 If they arrived at 8:00 in the
11 morning, you only looked at video from 3:00 to
12 6:00, but they arrived at the building at 8:00
13 and didn't leave, would you know whether or not
14 they were in the building based on your looking
15 at those three hours of video?

16 A Probably not, if they didn't
17 leave, no.

18 Q How many cameras are there?

19 A Nine cameras in the club.

20 Q Where are the cameras located?

21 A Front desk, locker rooms,
22 outside, shop, retail place and down the
23 corridor leading into the gym.

24 Q There is a camera in the locker
25 room?

1 Sanders

2 A Not in the locker room, outside.

3 MR. HARMAN: Could you
4 read back the list, please?

5 (Whereupon, the record was
6 read back by the reporter.)

7 Q Other than the main entrance to
8 the gym, is there any other way to get into the
9 gym?

10 A Not to my knowledge, no.

11 Q And how many cameras in total
12 would you say there are, nine?

13 A I think it's nine.

14 Q So you would have to look at nine
15 different sets of video; is that correct?

16 A I would look at the video from,
17 the video that has everyone -- there's two
18 cameras that everyone has to pass by, which is
19 the front desk, so that's the camera that you're
20 looking at primarily, the front desk camera,
21 because everyone -- no one can get into the club
22 unless they walk past the front desk, so that's
23 the primary camera that you're going to look at.

24 Q So it's your testimony that you
25 looked at the front desk camera?

1 Sanders

2 A And looking at the camera going
3 down the corridor leading into the gym. That's
4 another camera that 95 percent of the people
5 that are coming in have to go past, and that's
6 the camera that would lead to the gym floor and
7 where the PT manager's office is.

8 Q So those are two separate
9 cameras?

10 A Yes.

11 Q Two separate sets of video?

12 A Yes.

13 Q Did you look at them
14 simultaneously?

15 A Yes.

16 Q So you were looking at two sets
17 of video at the same time?

18 A Yes.

19 Q Did you look at any other video?

20 A No.

21 Q And do you recall on how many
22 days you have looked at video?

23 A How many days? I don't know the
24 exact number of days. It was just whatever days
25 were --

1 Sanders

2 Q Well, I'm not talking about on
3 different days.

4 How many different days of video
5 did you look at when you conducted your
6 investigation into Mr. Maietta?

7 A Whatever the days were that the
8 sessions were pulled, that's the days that I
9 looked at on the video.

10 Q But I'm asking about your
11 recollection.

12 So did you think it was more than
13 two?

14 A It was at least two.

15 Q Do you think it was more than
16 five?

17 A I don't believe so. I don't know
18 for sure.

19 Q And what else besides this video
20 that you looked at did you do to conduct an
21 investigation into Mr. Maietta?

22 A That was probably the primary
23 thing that I did.

24 I don't think there was anything
25 else I did as far as an investigation.

1 Sanders

2 Q So you didn't do anything else,
3 you just looked at this video for three hours
4 leading up to the sessions that were pulled?

5 A Yes.

6 Q And based on what you have
7 testified to today, you determined that there
8 was no way that Mr. Maietta could have been
9 involved in this session pulling?

10 A Yes.

11 Q And you didn't speak to any other
12 employee of Equinox regarding whether Mr.
13 Maietta was involved in this?

14 A No.

15 Q But you did speak with other
16 employees regarding whether Ms. Ashdown was
17 involved in this, right?

18 MR. McPARTLAND: Object to
19 the form.

20 You can answer.

21 A No, I didn't speak to other
22 employees whether she was involved in this or
23 not.

24 I spoke to trainers with regard
25 to the sessions that were pulled and asked do

1 Sanders

2 they know about these sessions.

3 I didn't tell these trainers that
4 I think, do you think Kerry is involved in this,
5 that's not what I said.

6 Q Did you speak with any Equinox
7 employees about whether Ms. Ashdown, other than
8 the corporate employees that you have talked
9 about, whether Ms. Ashdown was involved in the
10 session pulling?

11 A Not that I recall.

12 Q When did you conduct this
13 investigation?

14 A It was in August 2011.

15 Q Let's turn your attention back to
16 Plaintiff's Exhibit 3.

17 A (Perusing document.)

18 Q You testified that you drafted
19 this e-mail and in the last sentence of the
20 first paragraph, would you agree that it says,
21 "She also feels he needs to be investigated in
22 regard to this situation"?

23 A What about it?

24 Q Did you write it?

25 A Yes.

1 Sanders

2 Q And did you write it on September
3 1, 2011?

4 A Yes.

5 Q And had you completed your
6 investigation when you wrote this e-mail?

7 A Probably, yes. I'm pretty
8 certain, because I already looked at the video,
9 yes.

10 Q So you had already completed your
11 investigation?

12 A I'm just communicating to them
13 what she felt or what I believed she felt, so
14 that they knew, that's all.

15 Q So you wanted them to know what
16 you thought she felt?

17 A Yes.

18 Q But you didn't think it was
19 important to tell them that you had already
20 completed an investigation involving looking at
21 video?

22 A Again, I'm pretty confident that
23 I had a conversation with Matt Plotkin about
24 what I did prior to sending this e-mail.

25 (A document Bates stamped

146

1 Sanders

2 EQX-6400 was marked as Plaintiff's
3 Exhibit 4 for identification, as of
4 this date.)

5 BY MR. HARMAN:

6 Q I'm handing you what's been
7 marked as Plaintiff's Exhibit 4 (handing).

8 Please take a look at it.

9 MR. McPARTLAND: Just for
10 the record, we removed the
11 confidentiality designation on
12 this document.

13 So if you want to produce
14 the unredacted document, which I
15 believe I produced, I used in
16 Ms. Ashdown's deposition, just
17 let me know.

18 MR. HARMAN: Okay.

19 MR. McPARTLAND: Because I
20 see the member's name is redacted
21 on this document.

22 A (Perusing document.)

23 Q Are you done?

24 A Yes.

25 Q I take it you as a general

1 Sanders

2 manager of the Soho location consider session
3 stealing to be a pretty serious offense?

4 A Yes.

5 Q And as part of your investigation
6 into the serious sessions stealing, you
7 determined that Ms. Ashdown had stolen sessions;
8 is that correct?

9 A Yes.

10 Q And that Mr. Maietta had not been
11 involved in the session stealing; is that
12 correct?

13 A Yes.

14 Q Now, because you have testified
15 it's such a serious offense, did it occur to you
16 that Ms. Ashdown might have been stealing
17 sessions during her entire time there?

18 A Possibly, yes.

19 Q And that could mean that members
20 of Equinox would have had sessions taken from
21 them illegally, right?

22 A Yes.

23 Q And did you endeavor to determine
24 whether or not Ms. Ashdown had stolen sessions
25 during other periods?

1 Sanders

2 A No.

3 Q That wasn't important?

4 MR. McPARTLAND: Object to
5 form.

6 You can answer.

7 A I just didn't do it.

8 Q All right.

9 So as you sit here today you have
10 no idea whether any other sessions were stolen
11 even in your club?

12 A No.

13 Q Because you didn't look?

14 A Correct.

15 Q Drawing your attention to
16 Plaintiff's Exhibit 4 here, this is a
17 spreadsheet that is Bates stamped EQX-6400, and
18 it has the line member name, or membername,
19 redacted, it's subsequently been produced in
20 unredacted form.

21 Perhaps we will review that
22 document at a later point in the deposition, but
23 for now we are going to discuss this document.

24 Do you recognize this document,
25 Mr. Sanders?

1 Sanders

2 A Yes.

3 Q What is it?

4 A It was the IT report that they
5 pulled from the database to analyze the sessions
6 that were pulled.

7 Q When you say "they," who is
8 "they"?

9 A The IT department.

10 Q And when you say "analyze," who
11 was analyzing this?

12 A I was, and I believe Matt looked
13 at it.

14 I'm not sure who else looked at
15 it.

16 Q So you analyzed this document?

17 A Yes.

18 Q And as part of your analysis,
19 what did you do?

20 A Just looked at the dates, you
21 know, to perform, the dates, you know, who it
22 went to and who got credit for it and when they
23 were used, reinstated, all of that stuff.

24 Q Why were they reinstated?

25 A Because they looked -- well,

1 Sanders

2 the -- when something is reinstated, that means
3 it should not have been used, is one reason for
4 it being reinstated.

5 And another way, another reason
6 it would be reinstated is if it expired and you
7 actually want to use an expired session, so then
8 it would be reinstated for that purpose.

9 So that's two reasons why it
10 would be reinstated.

11 Q Let's look at line one. Do you
12 know why the session in line one was reinstated?

13 A Because he should not have been
14 paid for that session, so it got reinstated.

15 Q And how did you determine that --
16 so it was reinstated when?

17 A It doesn't have the date on here
18 when it was reinstated, but it was reinstated
19 because it should not have been used.

20 Q Are you guessing or do you know?

21 A No, I'm telling you.

22 Q And what does the date reflect?

23 A The date reflects the date that
24 it was pulled or performed from the system, the
25 performed date.

1 Sanders

2 Q What does the August 13, 2011
3 date reflect, in your opinion?

4 A That's the date that reflects
5 when it was pulled, like used in the system.

6 Q What is August 16th, what is that
7 date?

8 A That's the date that it was
9 reinstated, because it should not have been
10 used.

11 Q But you just testified earlier
12 that you didn't know when it was reinstated?

13 A Well, I made a mistake.

14 MR. McPARTLAND: Object to
15 the form.

16 Q Did you testify earlier that you
17 didn't know when it was reinstated?

18 A I made a mistake.

19 Q Do you understand this form?

20 A I have a good understanding of
21 the form, yes.

22 Q If you go to the third line where
23 it says February 12, 2012, what does that mean?

24 A That was the expired date.
25 That's what it says.

1 Sanders

2 Q And if it was, where does it say
3 that it was expired? Oh, I see.

4 So it's your testimony that that
5 means that that date reflects when the session
6 was expired?

7 A Yes.

8 Q Okay.

9 A See, the part --

10 Q Please, please.

11 February 12, 2012, would you
12 agree is a date after August 13, 2011, correct?

13 A Yes.

14 Q So that particular session hadn't
15 expired, correct?

16 A Correct.

17 Q Is there any session on here that
18 you are aware of that had expired?

19 A (Perusing document.) It looks
20 like none of them had expired yet.

21 MR. HARMAN: It's 1:10.

22 Why don't we take a lunch break
23 now?

24 (Whereupon, at 1:10 p.m.,
25 a luncheon recess was taken.)

153

Sanders

AFTERNOON SESSION

September 12, 2013

2:06 p.m.

L A W R E N C E S A N D E R S, resumed and
testified further as follows:

EXAMINATION

BY MR. HARMAN

Q Mr. Sanders, while on your break
did you speak to anyone about your testimony?

A No.

Q Did you speak to anyone at all?

A No.

Q Did you use your phone?

A No.

Q As part of your investigation
into session pulling, did you investigate
Cornelia?

A I had a conversation with her,
yes. And also I believe Liz Minton had talked
to her about it or spoke to her about the
session pulling.

Q So you had a conversation with
her and that's it?

A Yes.

1 Sanders

2 Q Did you ever work at the 17th
3 Street location?

4 A Yes.

5 Q What was your title there?

6 A General manager.

7 Q How long did you hold that title?

8 A Two years.

9 Q And what were the years of that?

10 A 2008 to 2010.

11 Q And you testified that you were
12 able to pull, you as one of the managers are
13 able to pull sessions for trainers, correct?

14 A Yes.

15 Q And how do you do that?

16 A Either the trainer has come to us
17 and said the session forgot to be pulled or
18 there's a book that we have that's called
19 cancellation book slash forgot to pull book.

20 So when clients forget to pull
21 their sessions, the trainers write the client's
22 name in this book and they write down whether it
23 was a no show, late cancellation or basically
24 forgot to pull.

25 And then the PT manager or the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Sanders

fitness manager is responsible for checking this book on a daily basis and pulling whatever sessions need to be pulled.

So if you are not able to do that, then I would potentially be the third person or the AGM would be the fourth person that would be instructed to take care of that.

Q Who is the AGM?

A Currently?

Q Yes.

A Name is Jed Prisby and Jane Montoya.

Q There are two?

A There are two AGMs in my club presently, yes.

Q The first one?

A The name is Jed Prisby, J-E-D P-R-I-S-B-Y.

Q And the second one?

A Jane Montoya, M-O-N-T-O-Y-A.

Q And how long has Jed been an assistant general manager?

A He's been with Equinox for, I believe for a little over two years.

1 Sanders

2 Q How long has he been at Soho?

3 A About three, four months.

4 Q And how many assistant managers
5 were there when Ms. Ashdown was there?

6 A One.

7 Q What was that individual's name?

8 A I believe it was Lauren Buck.

9 Q And where is Ms. Buck now?

10 A No longer with Equinox.

11 Q And how did her employment with
12 Equinox end?

13 A We decided that she should go a
14 different route in the company, do a different
15 position.

16 We spoke to her about it and she
17 decided not to want to do that, so she left.

18 Q And how would you describe the
19 relationship between Lauren Buck and Mauro
20 Maietta?

21 A I'd guess I would describe it as
22 professional.

23 Q Did he complain about her?

24 A No, not to my recollection, no.

25 Q Would you describe, would you

1 Sanders

2 describe the relationship between Mauro and
3 Ms. Ashdown as professional?

4 A Mauro and Ms. Ashdown as
5 professional?

6 Q Yes.

7 A For the most part, yes, it was
8 professional.

9 Q Ever identify any unprofessional
10 behavior on the part of Mauro Maietta with
11 respect to their relationship?

12 A No, I haven't.

13 Q You trained with Mauro Maietta,
14 right?

15 A Yes.

16 Q And there was a time where you
17 trained with him on a regular basis, correct?

18 A Yes.

19 Q That would be at least three
20 months, maybe three months, approximately?

21 A Yes.

22 Q And that would be a couple of
23 times a week?

24 A Yes.

25 Q And you're his direct supervisor,

1 Sanders

2 correct?

3 A The PT manager is his direct
4 supervisor. I'm the supervisor over everyone in
5 the club.

6 Q So as part of your
7 responsibilities as the supervisor over everyone
8 in the club, do you check in with the personal
9 training manager to see how things are going?

10 A Yes.

11 Q And the fitness manager to see
12 how things are going?

13 A Yes.

14 Q And I assume you want to know
15 good things about them, right?

16 A Yes.

17 Q And did Mr. Maietta ever say
18 anything positive about Ms. Ashdown?

19 A He thought that she brought a
20 different energy, obviously in the beginning,
21 and she was, like I said, driven and ambitious
22 and motivated and wanted to inspire people in
23 the club.

24 So that was something that was
25 good that he recognized.

1 Sanders

2 Q Did he specifically tell you
3 those things or are those your observations?

4 A Those were my observations of the
5 interactions and based on, you know, again,
6 conversations had with him in the beginning.

7 Q Now, I'm going to repeat my
8 question so the record is clear.

9 A Yes.

10 Q Did Mr. Maietta ever say anything
11 to you that was positive about Ms. Ashdown?

12 A Specifically I can't recall.

13 Q Now, when you were working at the
14 17th Street location, did you have a login
15 number to log into your computer?

16 A Did I?

17 Q Yes.

18 A Yeah.

19 Q And were there occasions when you
20 had to pull sessions?

21 A Probably very rare, but maybe,
22 but I don't recall.

23 Q But would you know how to do it
24 if you needed to?

25 A Of course.

160

Sanders

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Did you have an office at 17th
Street?

A Yes.

Q Was it enclosed?

A Yes.

Q And I'm not asking for the
specific number. It doesn't really matter.
But I take it you punch in some
kind of code to log into the system to pull a
session, right?

A Yes, your cashier's code.

Q Your cashier's code.
And that's your own private code,
right?

A Yes.

Q No one else has that?

A Correct.

Q No one is supposed to have that,
right?

A Yes.

Q Do you have that written down
anywhere?

A No.

Q Have you memorized it?

1 Sanders

2 A Yes.

3 Q How long have you had it?

4 A I have had it probably my entire
5 employment at Equinox.

6 Q So it doesn't change?

7 A The only way it would change is
8 if I found out someone had it, then I would have
9 it changed.

10 Q But it doesn't change when you
11 move from club to club?

12 A No, it doesn't.

13 Q And if you wanted to log in to
14 pull a session at another computer, could you do
15 that?

16 A There's only certain computers
17 designated to pull sessions.

18 Q What are those?

19 A The front desk computers, my
20 computer as a general manager.

21 Q Right.

22 A And the PT manager's computer,
23 the PT and fitness manager.

24 I believe those are the only
25 computers designated to pull sessions from, like

1 Sanders

2 IT has to set it up so you can pull sessions
3 from those computers.

4 So it's not any computer in the
5 club that has the ability to pull sessions.

6 Q Right.

7 Well, I'm not talking about
8 computers that are out in --

9 A You are talking specific to the
10 club?

11 Q I understand.

12 So you have got the front desk
13 and your computer and the PT and fitness
14 manager's computers, right?

15 A Right.

16 Q Now, there are trainers that work
17 at more than one club, right?

18 A Trainers that work at more than
19 one club?

20 Q Yes.

21 A Not, no.

22 Q That never happens?

23 A That doesn't happen.

24 Q You're positive of that?

25 A It's possible, but that's not

1 Sanders

2 what I'm used to. That's not what I have
3 experienced.

4 Q Well, like when a trainer becomes
5 a manager in training, for example, and they
6 move from one club to the other, but they still
7 have a client base at one club, but they're
8 moving to another club to become a manager and
9 they're going through a training program, isn't
10 it possible that they might be training people
11 in two different locations?

12 A You're saying if I'm -- is the
13 question you're asking, if I'm manager, I have
14 been promoted to a manager?

15 Q If you are a trainer?

16 A If you are a trainer, I'm not
17 aware of trainers training multiple people in
18 different locations.

19 I'm not aware of it.

20 Q Ever?

21 A I'm not aware of it.

22 Q Is it possible?

23 A Anything is possible, but I'm not
24 aware, that's not the protocol of the standard
25 for how things are supposed to go.

1 Sanders

2 Q Is this protocol written down
3 someplace?

4 A I'm not aware of that.

5 Q How do you understand this
6 protocol?

7 A I understand that if you're a
8 trainer at one location, you train your clients
9 at that location.

10 The only time you would
11 potentially train one of your clients at this
12 location, at another location, is if there's
13 some kind of unforeseen issue at that location
14 where members can't go to it for whatever the
15 reason is, then we may make accommodation for
16 our trainers to train a client at a different
17 location.

18 Q Let's go back to the computer,
19 the cashier's code.

20 A Uh-hum.

21 Q So your cashier's code was the
22 same, but you went to Soho and you could log
23 into the designated computers using the same
24 cashier's code, right?

25 A Well, logging into the computer

1 Sanders

2 and using the cashier's code are two very
3 different things.

4 Q But you could use the same
5 cashier's code at Soho that you used at 17th
6 Street, correct?

7 A Yes.

8 Q And I take it that Ms. Ashdown
9 had a cashier's code, correct?

10 A Yes.

11 Q And that Mr. Maietta had a
12 cashier's code, correct?

13 A Yes.

14 Q And that like yours, they could
15 be used at other locations?

16 A If they were transferred to those
17 locations as managers.

18 Q I'm not asking if they were
19 transferred.

20 A No, they can't be used.

21 Q I'm not asking about policy.

22 A They would not be able to use the
23 code at the location. They only can use their
24 code at the location that they work at.

25 Q How do you know that?

1 Sanders

2 A Because that's the way our system
3 is set up.

4 Q How do you know that?

5 A I have worked for the company for
6 long enough to know how the system is set up.

7 Q Do you know of any policy that
8 says that a cashier's code can't be used at more
9 than one location?

10 A I know that when I go to a
11 location that I don't have access to, and I'm
12 not working at, and if I tried to use my
13 cashier's code, it won't work.

14 Q Have you tried to do that?

15 A Of course.

16 Q When?

17 A Early on in my Equinox career,
18 obviously, to see when I'm at another club
19 trying to do some work because I'm not at my
20 club to try to log into the computer, it won't
21 allow me to do it.

22 Q So is part of this investigation
23 into Cornelia, you spoke with her?

24 A Yes.

25 Q And what did you say to her?

1 Sanders

2 A I asked her does she know who
3 these people were and did she, you know, pull
4 sessions for Kerry to, with this client, and,
5 you know, did she pull these sessions.

6 Q What did she say?

7 A She didn't know who these people
8 were and she said that, no, she didn't pull the
9 sessions for Kerry.

10 Q And did you ask her anything
11 else?

12 A I asked her did Kerry have her
13 cashier's code and she said Kerry was the one
14 that gave it to her.

15 Q She said that Kerry was the one
16 that gave it to her?

17 A Her cashier's code.

18 Q Who issues cashier's codes?

19 A What?

20 Q Who issues cashier's codes?

21 A The managers of the respective
22 departments. So like if you're the fitness
23 manager or the PT manager and you have a manager
24 in training, they have the ability to issue or
25 let them know what their cashier's codes are

1 Sanders

2 going to be.

3 So that's who would tell them.

4 Front desk employees, assistant
5 managers or myself would tell the front desk
6 employees, "This is your cashier's code,
7 obviously don't share it with anyone. This is
8 what you're going to use to be able to do
9 transactions."

10 So it depends on the employee
11 that needs the cashier's code and that manager
12 or whoever is directing, managing that employee,
13 will give them the cashier's code.

14 Q She told you that Kerry issued a
15 cashier's code to her?

16 She was a manager in training,
17 right?

18 A She was a manager in training.

19 Q She wasn't a trainer, right?

20 A Right.

21 Q And Kerry would issue -- do
22 trainers get cashier's codes?

23 A No, not trainers, no.

24 Q Who issued Kerry's cashier's
25 code?

1 Sanders

2 A I probably gave Kerry her
3 cashier's code.

4 Q So you would have known Kerry's
5 cashier's code?

6 A Yeah.

7 Q And where would you have kept it?

8 A I don't keep it anywhere.

9 Q So you have no idea.

10 Did you issue Mauro's cashier's
11 code?

12 A Probably not, because he was a
13 manager before I became a general manager at
14 17th Street.

15 So I would assume that the PT
16 manager at that club gave him his cashier's
17 code.

18 Q You would assume?

19 A I would assume. I don't know for
20 certain who gave him his cashier's code.

21 Q And did Cornelia tell you
22 anything else?

23 A No.

24 Q Did you talk to Bobby about this
25 session pulling?

1 Sanders

2 A Yes, I did.

3 Q Tell me, what benefit would Ms.
4 Ashdown have from giving sessions to Bobby?

5 A One, I know Bobby was a trainer
6 that was struggling and he was a trainer that
7 was having a difficult time with his business,
8 and these sessions that were pulled for him
9 helped him hit a pay period bonus, which means
10 he gets additional money because of these
11 sessions being pulled for him.

12 And, you know, I know that Kerry,
13 again, she wanted to take care of her people.
14 And so the benefit would be if she has a trainer
15 on staff that she has helped out to make a
16 little bit more money.

17 And I know that there was a
18 period of time where, you know, Kerry and I had
19 a conversation about how Bobby was struggling,
20 and, you know, him needing money and confiding
21 in her about some financial stuff that was going
22 on with him.

23 Q Did he tell you this or did she
24 tell you that?

25 A She told me that.

1 Sanders

2 Q So you believe that Ms. Ashdown
3 took sessions and gave them to Bobby because he
4 was struggling financially?

5 A Possibly, yes.

6 Q So you believe it's possible or
7 do you believe it's true?

8 A I believe it's true.

9 Q So you believe that she stole
10 sessions to give them to Bobby because he was
11 struggling with money, but that these sessions
12 that she stole helped him get a bonus, correct?

13 A Yes.

14 Q And that she likes to take care
15 of her people, right? That's your testimony,
16 correct?

17 A Yes.

18 Q And are there any other people
19 that she was taking care of?

20 A I don't know.

21 Q Did you conduct any
22 investigations into whether she was taking care
23 of any other of the 35 to 40 people?

24 A No, I don't.

25 Q That wasn't important to look at?

172

1 Sanders

2 MR. McPARTLAND: I object
3 to the form.

4 A I didn't look at it.

5 Q Did you interview anyone else --
6 well, once you terminated Ms. Ashdown for
7 stealing the \$60, did you interview anybody else
8 for her position?

9 MR. McPARTLAND: I object
10 to the form.

11 You can answer.

12 A I believe I answered that. I
13 don't recall interviewing anyone else.

14 Q So you just put Mauro in that
15 position, right?

16 A Yes.

17 Q And was he excited to have that
18 position?

19 A I'm not sure. You would have to
20 ask him that.

21 Q I'm asking you did he appear to
22 be excited to have that position?

23 A I'm not certain whether he was
24 excited or not.

25 Q Did he seem stressed?

173

1 Sanders

2 MR. McPARTLAND: Object to
3 the form.

4 You can answer.

5 A I don't think he was thrilled the
6 way it came about. I don't think he was excited
7 about that.

8 Q Are you speculating again or are
9 you telling what you observed?

10 I am asking you about your
11 observations, not your speculations.

12 A My observation is it wasn't the
13 best situation to be in. That was my
14 observation.

15 Q So you're positive that Mauro
16 didn't set Ms. Ashdown up for this scheme of
17 session pulling?

18 A Yes.

19 Q Are you friendly with Mauro?
20 Would you consider him a friend?

21 A I consider him a work colleague.

22 Q That's it?

23 A As a work colleague.

24 Q You worked with him for a long
25 time?

1 Sanders

2 A Yes.

3 Q Do you feel like you have his
4 back?

5 A I have his back just as much as I
6 have anyone else's back.

7 Q So when you are looking at this
8 video for three hours on some days, did you
9 notice whether Cornelia was on any of the
10 videos?

11 A Yes, I did.

12 Q And was she?

13 A She was there.

14 Q So she was on the video?

15 A Uh-hum.

16 Q It's your conclusion that
17 Cornelia had no part of this session stealing
18 scheme solely based on what she told you, that
19 she just didn't do it?

20 A No, because she wasn't there
21 during -- she had left the club already.

22 Q So you noticed on the video that
23 she had left the club as part of your video
24 investigation?

25 A Correct.

175

1 Sanders

2 Q I see.

3 And when had she left the club?

4 A She left the club approximately
5 around 1:00, 1:30, I believe it was.

6 I don't remember exactly, but I
7 know she left the club before, because obviously
8 I would have dealt with that.

9 Q Did you memorialize that
10 anywhere?

11 A No.

12 Q And you said she left the club
13 around 1:00.

14 Was that every day? You looked
15 at video -- did you look at video for just one
16 day?

17 MR. McPARTLAND: Objection.

18 Asked and answered, but
19 you can answer.

20 A I looked at video for the days
21 that the sessions were pulled, and, again, to
22 witness who was in the club during those times.

23 Q And did she leave the club every
24 day about 1:00?

25 A She was only in the club one of

1 Sanders

2 the days.

3 Q And she left at 1:00?

4 A Approximately. I don't really
5 recall exactly.

6 Q But you didn't save the video of
7 her leaving at 1:00?

8 MR. McPARTLAND: Objection.
9 Asked and answered.

10 A No.

11 Q You didn't show the video to
12 anybody?

13 A No.

14 Q And you didn't memorialize this
15 alleged departure of Cornelia shortly before the
16 session pulling?

17 A No.

18 Q Now, there were sessions pulled
19 at other times.

20 I mean, I take it now that you
21 are testifying that she left at 1:00 because
22 some of the sessions were pulled at 2:00,
23 correct?

24 A I'm just saying based on what I
25 watched.

1 Sanders

2 Q Well, that's a pretty specific
3 recollection, right?

4 You said it was a long time ago,
5 but now you're saying you specifically remember
6 her leaving at 1:00, right?

7 A I said approximately. I didn't
8 say she specifically left at that time.

9 Q What makes you think that she
10 approximately left at 1:00?

11 A Because she left the club, prior
12 to the sessions being pulled, she left the club.
13 I do know that.

14 MR. HARMAN: I'm going to
15 call for the production of all
16 records concerning any personal
17 training sessions that Cornelia
18 performed at the Soho location or
19 at any other location on
20 August 13, 2011, July 30, 2011,
21 July 16, 2011 and that's it.

22 So it would be any records
23 concerning sessions that were
24 pulled or any work-related
25 activity for Cornelia Hobbie,

Sanders

H-O-B-B-I-E, at the Soho location
or at any other location,
including the location that she
had recently transferred from
where I understand she was still
performing personal training
sessions.

MR. McPARTLAND: We will
take that under advisement.

Please put all your
requests in writing.

BY MR. HARMAN:

Q Do you access your work e-mail
from your BlackBerry?

A Yes.

Q And do you access your work
e-mail from any other location other than your
desk say or your BlackBerry?

A Yes.

Q Where?

A Any computer that I have access
to I can access my e-mail.

Q Do you have a computer at home?

A Yes.

1 Sanders

2 Q Do you access your work e-mail
3 from home?

4 A Sometimes.

5 Q And did you look for any e-mails
6 concerning Ms. Ashdown on your home computer?

7 A No.

8 Q And other than this home computer
9 that you have testified to, is there any other
10 computer that is not an Equinox computer that
11 you used to access your work-related e-mail?

12 A No.

13 Q Now, when you were doing this
14 video investigation, did you happen to notice
15 whether Bobby was at the location when the
16 sessions were pulled?

17 A No.

18 Q You did or did not?

19 A I did not notice.

20 Q And did you happen to know
21 whether Ryan was at the location when the
22 sessions were pulled?

23 A I did not notice.

24 Q Did you look?

25 A No, I didn't look.

1 Sanders

2 Q Did you look for Bobby?

3 A No, I didn't look for Bobby.

4 MR. HARMAN: I'm going to
5 also call for the production of
6 all personal training sessions
7 that were performed by Mauro
8 Maietta on August 13, 2011,
9 July 30, 2011, July 16, 2011, and
10 that's it.

11 So all personal training
12 sessions that were performed by
13 Mr. Maietta on those dates at the
14 Soho location or any other
15 records of any work-related
16 activity of Mr. Maietta on that
17 date.

18 MR. McPARTLAND: Take it
19 under advisement.

20 Please put all requests
21 into writing.

22 BY MR. HARMAN:

23 Q Did you ever evaluate Ms.
24 Ashdown's work performance?

25 A No.

1 Sanders

2 Q And how about Mr. Diaz, did you
3 participate in a search for Mr. Maietta's
4 replacement?

5 A Yes.

6 Q You did?

7 A Yes.

8 Q Was anyone else interviewed
9 besides Mr. Diaz?

10 A Mr. Diaz is the second fitness
11 manager. We had one named Lakei who was before
12 him, who was shortly after.

13 Q And who selected Lakei?

14 A It was a combination of the PT
15 department, I believe Joe, Liz, Rich, were all
16 involved in that decision-making process, me
17 being included with it also.

18 Q What's Lakei's last name?

19 A Herman, H-E-R-M-A-N.

20 Q Is Lakei a man or woman?

21 A Man.

22 Q And how did Mr. Herman and Mr.
23 Maietta get along?

24 A They got along okay.

25 Q Okay?

1 Sanders

2 A Yeah.

3 Q What happened to Mr. Herman?

4 A He decided to step down from his
5 position a year after being in the position to
6 pursue his own personal interests.

7 Q Did he ever complain about Mr.
8 Maietta?

9 A About him being competitive.

10 Q Anything else?

11 A Not to my knowledge.

12 Q Did he complain that Mr.
13 Maietta's competitiveness was a problem in the
14 workplace?

15 A He complained that he didn't like
16 it. He thought that that was not something that
17 he should be doing or that was effective or
18 whatever.

19 Q And that's also what Ms. Ashdown
20 was complaining about, correct?

21 A Uh-hum, yes.

22 Q And have you ever reprimanded Mr.
23 Maietta for his competitiveness?

24 A I have had conversations with him
25 about it.

1 Sanders

2 Q I'm asking if you reprimanded
3 him?

4 A I wouldn't say I've reprimanded
5 him, no.

6 Q Have you told him to stop it?

7 A I've told him to cut it out, yes.

8 Q And has he?

9 A To a large degree, yes.

10 Q What does that mean "to a large
11 degree"?

12 A That means that he is not nearly
13 as competitive as he once was, so he has worked
14 on improving himself in that regard.

15 Q When you say "competitive," does
16 that mean that he wants to be better than
17 everyone else?

18 A That means he's a sport person
19 and he's competitive as it relates to sports or
20 as it relates to competition, whether it's
21 weight lifting, whether it's -- whatever, as it
22 relates to sports. That's what's he's
23 competitive in.

24 Q Personal training is a type of
25 physical activity, right?

1 Sanders

2 A Right.

3 Q And he's competitive in the
4 personal training area, right?

5 A He's competitive obviously in
6 being the best at whatever it is that he's
7 doing.

8 (A document Bates stamped
9 EQX-6397 through EQX-6399 was
10 marked as Plaintiff's Exhibit 5 for
11 identification, as of this date.)

12 BY MR. HARMAN:

13 Q I'm handing you what has been
14 marked as Plaintiff's Exhibit 5 (handing).

15 Please take a look at it.

16 A (Perusing document.) Okay.

17 Q You testified you had a
18 conversation with Bobby about whether he knew
19 anything about these, the sessions stealing?

20 A Yes.

21 Q And that you had, that Ms.
22 Ashdown had confided in you that she was
23 concerned about Bobby's financial condition,
24 correct?

25 A Yes.

1 Sanders

2 Q And did you ask Bobby if he was
3 having financial difficulties?

4 A No.

5 Q And did you ask if Ms. Ashdown
6 had given him sessions in the past that he had
7 not actually performed?

8 A No.

9 Q How about with Ryan, did you ask
10 Ryan if he had been given sessions by Ms.
11 Ashdown in the past that he had not performed?

12 A No.

13 Q So as you sit here today, you
14 have no idea whether Ms. Ashdown had given Bobby
15 sessions in the past that he had not performed?

16 A No.

17 Q And you have no idea whether Ms.
18 Ashdown had given Ryan sessions in the past that
19 he had not performed?

20 A No.

21 MR. McPARTLAND: Objection
22 to form. And please note my
23 objection to the prior question,
24 as well.

25 Q So let's move on.

1 Sanders

2 Did you ask whether Cornelia
3 Hobbie had ever given, just Ryan, whether
4 Cornelia had ever given him sessions?

5 A No.

6 Q And how about Bobby, did you ask
7 Bobby if Cornelia had ever given him sessions?

8 A No.

9 Q So as you sit here today you have
10 no idea whether Cornelia Hobbie had given Bobby
11 or Ryan sessions in the past?

12 A No.

13 Q Now, drawing your attention to
14 Plaintiff's Exhibit 5, are you familiar with
15 this document?

16 A No.

17 Q You have never seen this document
18 before?

19 A No, I haven't.

20 Q Okay.

21 MR. HARMAN: For the
22 record, this is a document that's
23 Bates stamped EQX-6397, EQX-6398
24 and EQX-6399.

25 It was an internal series

1 Sanders

2 of data produced by Equinox.

3 Q The second page, drawing your
4 attention to the second page, it says in the
5 center of the page, after a checkmark it says,
6 "Employee was involuntarily terminated."

7 And then it says, "Who (Name and
8 Title) informed the employee of the termination
9 decision."

10 And it says, "Matt Plotkin,
11 regional manager, and Lawrence Sanders, GM."

12 Have you ever seen an entry like
13 that before with respect to any employee?

14 A I'm not sure I understand.

15 Q Do you know what this spreadsheet
16 is?

17 Have you ever seen a spreadsheet
18 like this before?

19 MR. McPARTLAND: Objection
20 to form.

21 A I haven't seen this spreadsheet,
22 but what it looks like is what we internally do
23 when an employee is no longer working with us,
24 we have to submit an EAF.

25 Q What's an EAF?

1 Sanders

2 A I believe it's called an
3 employment authorization form which dictates how
4 we hire people and how we terminate people, so
5 we have to go through a system to make sure we
6 hire people properly and we terminate them
7 properly.

8 So this is what this looks like,
9 but I've never seen it in this format.

10 Q Did you write this?

11 A Yes.

12 Q You did write this?

13 A Yes.

14 Q And is this an accurate
15 description of Ms. Ashdown's termination?

16 A Yes.

17 Q And is there anything that is
18 inaccurate about this description?

19 A Not to my knowledge, no.

20 Q And is this a complete and
21 accurate description of the basis for your
22 termination?

23 A Yes.

24 Q Drawing your attention, you
25 testified that you wrote this, right?

1 Sanders

2 A Yes.

3 Q It says, "There were 17 total
4 sessions that were pulled for three trainers,
5 Kerry being one of the trainers that four of the
6 17 were pulled for," "four of the 17 sessions
7 were pulled for," sorry.

8 "Kerry being one of the trainers
9 that four," so does that mean that four were
10 pulled for Kerry?

11 A Yes.

12 Q And so is it your belief that Ms.
13 Ashdown pulled all of these sessions -- drawing
14 your attention back to Plaintiff's Exhibit 4.

15 Is it your belief that Ms.
16 Ashdown pulled all of those sessions?

17 A Yes.

18 Q And you have no idea whether she
19 pulled any more sessions, you know,
20 fraudulently, than the sessions that are on this
21 spreadsheet?

22 A Correct.

23 Q Did you generate the spreadsheet?

24 A No.

25 Q Did you ask for it to be

1 Sanders

2 generated?

3 A Yes.

4 MR. McPARTLAND: Objection.

5 Asked and answered.

6 A Yes.

7 Q And when you asked for the
8 spreadsheet to be generated, what did you ask
9 for?

10 A I asked for sessions that were
11 pulled for specific clients on specific dates.

12 Q And who gave you those clients'
13 names?

14 A Mauro.

15 MR. McPARTLAND: Object to
16 the form.

17 A Mauro.

18 I mean, he showed me the
19 documents and that's when I went to look at the
20 documents.

21 Q So Mauro gave you some names and
22 then you had IT generate this Plaintiff's
23 Exhibit 4, right?

24 A Yes.

25 Q But you didn't look at any other

1 Sanders
2 names other than the names that Mauro gave you,
3 correct?

4 A Correct.

5 MR. HARMAN: Let me just
6 take a few minutes.

7 (Whereupon, at 2:47 p.m., a
8 recess was taken.)

9 (Whereupon, at 2:53 p.m.,
10 the deposition resumed with all
11 parties present.)

12 MR. HARMAN: Back on the
13 record.

14 BY MR. HARMAN:

15 Q Mr. Sanders, do you think that
16 you made the right decision in terminating Ms.
17 Ashdown?

18 A Yes.

19 Q And would you have done anything
20 differently?

21 A I guess given the circumstances I
22 probably would have saved the video.

23 Q Anything else?

24 A That's probably it.

25 Q And would you have asked anyone

Sanders

at corporate whether the company would allow Ms. Ashdown to take a lie detector test?

A I don't know.

No, I don't think I would have asked anyone at the company for that.

I mean, I believe it was Matt, when she said that to us, I believe Matt was present.

So, again, him being my superior, he was present when she said that, so, again, I can't speak definitely, but I believe it was communicated, because they asked, you know, what happened after we had the termination conversation with her and it was told this is what she said, so it was somewhat, I believe there was knowledge of the fact that she volunteered at that point to say, "I'll take a lie detector test."

But I believe that -- I don't think we made a bad decision or a wrong decision.

Q If it had been your decision, would you have allowed her to take a lie detector test?

1 Sanders

2 A I'm not sure.

3 Q If you were in her shoes, would
4 you have wanted to take a lie detector test?

5 MR. McPARTLAND: Object to
6 the form.

7 You can answer.

8 A I don't know. I think I've
9 communicated in a previous question what I would
10 do if I was in that situation, I would just try
11 to do everything I can to investigate it myself
12 and show my boss what, prove or try to prove to
13 my boss that I didn't do it instead of just
14 saying "I didn't do it."

15 That's what I would do in that
16 situation and try to do my best to convey that.

17 That's all I think I would do.

18 Q I'm asking you whether you would
19 have, had it been your decision, would you have
20 allowed her to take a lie detector test?

21 A And what I'm saying to you is I
22 don't know.

23 Q So you just don't know?

24 A I don't know.

25 Q Is there anything else that you

194

Sanders

want to change about your testimony today,
anything that you think was inaccurate?

A No.

Q All right. Thank you.

(Whereupon, at 2:56 p.m.,
the deposition was concluded.)

LAWRENCE SANDERS

Subscribed and sworn to

before me

this [REDACTED] day of [REDACTED], 2013.

NOTARY PUBLIC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X P A G E

Witness	Examination By	Page
Lawrence Sanders	Mr. Harman	4

EXHIBITS

Plaintiff's Exhibits	Description	Page
1	Second amended complaint	78
2	A two-page letter dated January 9, 2013	95
3	A document Bates stamped EQX-6358	119
4	A document Bates stamped EQX-6400	146
5	A document Bates stamped EQX-6397 through EQX-6399	184

REQUESTS:

Page 125: Copy of surveillance videos

Page 180: All personal training sessions that were performed by Mauro Maietta on August 13, 2011, July 30, 2011, July 16, 2011

C E R T I F I C A T E

STATE OF NEW YORK)

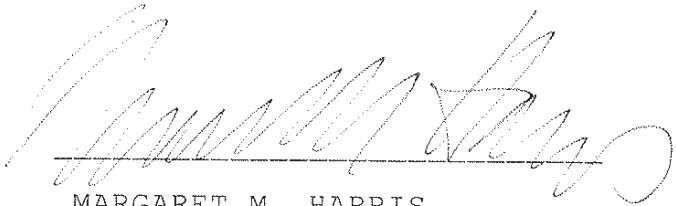
) ss.

COUNTY OF NEW YORK)

I, MARGARET M. HARRIS, a Shorthand
(Stenotype) Reporter and Notary Public of
the State of New York, do hereby certify
that the foregoing Deposition, of the
witness, LAWRENCE SANDERS, taken at the
time and place aforesaid, is a true and
correct transcription of my shorthand
notes.

I further certify that I am neither
counsel for nor related to any party to
said action, nor in any wise interested in
the result or outcome thereof.

IN WITNESS WHEREOF, I have hereunto
set my hand this 18th day of September,
2013.



MARGARET M. HARRIS